



Appeal Decision

Site Visit made on 1 June 2021

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 15th June 2021

Appeal Ref: APP/B0230/W/21/3268989

11 Dordans Road, Luton LU4 9BP

- 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 Monica Aitcheson against the decision of Luton Borough Council.
- The application Ref 20/01193/FUL, dated 29 September 2020, was refused by notice dated 7 December 2020.
- The development proposed is described as, 'conversion of existing light industrial building to residential use with associated amenity space and parking'.

Decision

1. The appeal is allowed and planning permission is granted for conversion and change of use of a light industrial building (Class B2) to a two bed dwelling with pitched roof including rooflight and external alterations to fenestration and associated works at 11 Dordans Road, Luton LU4 9BP in accordance with the terms of the application, Ref 20/01193/FUL, dated 29 September 2020, subject to the attached Schedule of Conditions.

Preliminary Matter

2. While I note the description of development stated on the application form, I have used the description as per the decision notice in the decision above as it more precisely describes the proposal.

Main Issue

3. The main issue is whether the proposed development would provide a suitable living environment for future occupiers with regard for outlook and privacy.

Reasons

4. The proposal would include two private amenity spaces, with the primary space leading from the living area. The depth of the proposed private amenity space adjacent to the living area, while not significant, would be sufficient such that the view from within the living area and garden would not feel oppressive. Moreover, the distance from the wall to the boundary fence would be greater than that stated in Appendix 6 of Policy LLP25 of the Local Luton Plan 2011-2031 November 2017 (LP). The two storey buildings along Dordans Road would be a significant distance from the private amenity space such that there would not be adverse impacts in terms of outlook in this respect. In addition, there are no tall buildings in the immediate vicinity of the private amenity space that would unduly affect the outlook of future occupiers.
5. The two private amenity areas would be located near the rear of the gardens of No 11 Dordans Road and the adjacent dwellings either side. Given the

distance between the rear walls of the dwellings along Dordans Road and the proposed private amenity areas, as well as the siting of the existing rear projections of these properties, any views to the proposal would not be to an extent that would unduly affect the privacy of future occupiers.

6. Since the front courtyard would be overlooked by the windows of the neighbouring properties, it would not constitute a private amenity space. However, given my findings relating to the private amenity space adjacent to the living area, this matter has not altered my overall decision.
7. With respect to the size of the private amenity areas, since the private amenity space adjacent to the living area would be rectangular, large enough to accommodate a number of uses and would be supplemented by a rectangular shaped space adjacent to the bedrooms, the scheme would be acceptable in this particular regard.
8. Consequently, the proposed development would provide a suitable living environment for future occupiers with regard for outlook and privacy. Therefore, it would not conflict with LP Policy LLP25 which seeks, among other things, developments that minimise overlooking and ensure access to privacy.
9. Since LP Policies LLP1 and LLP15 do not relate to the living environment of future occupiers, they are not directly relevant to this main issue.

Other Matters

10. I note local concerns including regarding parking and noise. However, the Highway Authority has not objected to the scheme. Since the proposal would provide two parking spaces, and the proposal would result in a limited number of trips from the site, I have no reason to disagree and this matter has not altered my overall decision.
11. While I acknowledge concerns regarding the scheme setting a precedent for future proposals, each case must be determined on its own merits. I also note the evidence relating to the planning history of the site. However, the previous planning permission has lapsed and does not form a fall-back position. Therefore, these matters have not altered my overall decision.

Conditions

12. I have considered the conditions suggested by the Council. I have made some minor changes to these having regard to the tests set out in the Framework and the guidance contained in the Planning Practice Guidance. I have amended some of the wording of the conditions in the interests of precision and clarity.
13. The conditions relating to commencement and specifying plans are necessary in the interests of certainty.
14. The condition relating to a construction method statement is necessary to safeguard the living conditions of neighbouring occupiers and a condition relating to contamination is necessary given that the site has a historical record of contamination risk. These conditions need to be pre-commencement as they would affect the early stages of construction.
15. In addition, the conditions regarding car parking are necessary in the interests of highway safety and the condition relating to external materials is necessary to safeguard the character and appearance of the area. The conditions

removing permitted development rights in relation to extensions and window openings are necessary to safeguard the character and appearance of the area and the living conditions of future occupiers. Conditions regarding boundary treatments and external lighting are necessary to safeguard the living conditions of neighbouring occupiers.

16. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant confirmed that they approve of the pre-commencement conditions.

Conclusion

17. For the reasons given above the appeal should be allowed.

R Sabu

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: 1194P02 and 1194P03A.
- 3) No development, including any works of demolition, shall take place until a Construction Method Statement (CMS) has been submitted in writing to the local planning authority for approval. The approved Statement shall be adhered to throughout the demolition/construction period. The Statement shall provide for:
 - (i) Operating hours: No demolition, construction or contaminated land remediation activities, movement of traffic, or deliveries to and from the premises, shall occur other than within the hours agreed with the Local Planning Authority. Any proposed extension to these agreed hours, other than for emergency works, shall be agreed with the Local Planning Authority before work commences;
 - (ii) the parking of vehicles of site operatives and visitors;
 - (iii) a dilapidation survey demonstrating the condition of the highway, inclusive of crossovers, kerbs and pedestrian footways, prior to the commencement of demolition and construction to be used for comparison following the completion of works and first operation of the development;
 - (iv) loading and unloading of plant and materials;
 - (v) storage of plant and materials used in constructing the development;
 - (vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (vii) wheel washing facilities;
 - (viii) measures to, where appropriate, manage the safe removal and disposal of asbestos material;The development shall then only proceed in strict accordance with the approved details.
- 4) Prior to first occupation of the development hereby permitted, full details of the boundary treatment of the site shall be submitted in writing to the local planning authority for approval. Those approved details shall be installed prior to the first occupation of the development and retained thereafter.
- 5) Details of the surfacing and drainage of any parking service area hereby approved shall be submitted in writing to the local planning authority for approval before any ground works commence. The details thereby approved shall be installed prior to the occupation of any building on the site.
- 6) The car parking area for the development, as identified on the approved plan/document No. 1194P02 shall be laid out and ready for use prior to the occupation of the development hereby permitted.

- 7) Prior to the commencement of above ground works full details of the external materials to be used in the construction of the development hereby permitted shall be submitted in writing to the local planning authority for approval. The development shall be carried out only in full accordance with those approved materials.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 2015, (or any Order revoking and re-enacting that Order with or without modification) no building, extension or other structure shall be erected, constructed or placed within the curtilage of the dwelling hereby permitted without the prior permission of the local planning authority.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows shall be constructed other than those expressly authorised by this permission.
- 10) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.
- 11) No external lighting shall be installed on the site, other than in accordance with a scheme to be submitted to and approved by the local planning authority. The scheme, lighting equipment and levels of illumination shall comply with guidance issued by the Institution of Lighting Professionals in their publication "Guidance Notes for the Reduction of Obtrusive Light Ref: GN01:2011" and shall be accompanied by a statement from the developer confirming that compliance. The agreed scheme shall be implemented before the development hereby permitted is occupied and shall be retained and maintained thereafter.

END OF SCHEDULE