



Appeal Decision

Site visit made on 16 March 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2022

Appeal Ref: APP/B0230/W/21/3282468

Leagrave Lodge, 91 High Street, Leagrave, Luton, LU4 9JZ

- 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 H A Safdar (Dawateislami UK South) against the decision of Luton Borough Council.
 - The application Ref 21/00651/FUL, dated 6 May 2021, was refused by notice dated 9 July 2021.
 - The development proposed is conversion and change of use of second floor from place of worship/educational establishment to student accommodation and construction of external means of escape in case of fire.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The external staircase had already been constructed and the second floor laid out as shown on the amended plans provided with the appeal prior to my site visit. I have determined the appeal accordingly.

Main Issues

3. The main issues are:
 - Whether the proposed development would provide acceptable living conditions for future occupiers,
 - Whether it would accord with relevant policies relating to the provision of student accommodation; and,
 - The effect on the character and appearance of the area.

Reasons

Living conditions

4. Policy LLP17A of the Luton Local Plan 2011-2031 (the LP) requires, amongst other criteria, that student accommodation meet the criteria for houses in multiple occupation (HMO), while Policies LLP1 and LLP25 of the LP collectively require that development create high quality and healthy places. The HMO criteria include the provision of two bathrooms for accommodation of the scale proposed.
 5. The appeal proposal includes one communal bathroom with multiple shower and WC cubicles. On the evidence before me, therefore, the development
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would not meet the HMO criteria. I have considered whether this shortfall could be addressed by an appropriately worded condition, but as I have not been provided with the minimum detailed requirements for HMO bathrooms it is not possible to say for certain that these requirements can be met.

6. The existing staircase at the front of the building would provide direct access for the second floor accommodation and a means of emergency escape. The internal staircase between the first and second floors would be retained but with a controlled access door fitted.
7. Due to the failure to meet the HMO criteria, the proposed development would not provide acceptable living conditions for future occupiers. It would therefore conflict with the requirements of Policies LLP1, LLP17a and LLP25 of the LP set out above.

Student accommodation

8. Policies LLP1 and LLP17A of the LP collectively state that student halls of residence will be permitted where, amongst other criteria, they demonstrably meet an unmet need and are within 1 km of the building they are primarily intended to serve.
9. The property contains four classrooms on the first floor and provides education alongside the use as a place of worship. The appellant states that 35 students attend classes at the property, with some of those travelling from outside the local area to attend classes, and the Council has not disputed this. Each of the classrooms was in use at the time of my site visit. While the building is also in use as a place of worship, there is no indication that this is inhibiting the educational use.
10. The provision of accommodation within the same building would meet a need generated by the educational use that exists at the site. It would therefore accord with Policies LLP1 and LLP17A of the LP.

Character and appearance

11. The external staircase has been erected on one of the flank elevations of the building. Although visible in the wider street scene, it is not an unduly prominent feature as it is set back from the front of the building, which is in turn set back from the site frontage. The staircase is a subordinate feature when seen against the building, and does not cause harm to the building's overall character or appearance, or that of the wider area.
12. The appeal proposal therefore complies with Policies LLP1 and LLP25 of the LP, the relevant criteria of which require that new development preserves the character of the area and be adaptable to change of uses.

Other Matters

13. The appeal site is within the zone of influence for the Chiltern Beechwoods Special Area of Conservation (the SAC). While the matter has not been raised by the parties, I have a duty under the Conservation of Habitats and Species Regulations 2017 to test if a proposed development could significantly harm the protected features of the SAC. However, as I am dismissing the appeal on other substantive grounds, it is not necessary to address this matter further.

Planning Balance

14. The proposed development would provide student accommodation to meet a need generated by the educational use of the site. This weighs in favour of the proposal. However, this benefit is outweighed by the conflict with the development plan as the appeal proposal would fail to meet the HMO criteria, and therefore would not provide acceptable living conditions for the future occupiers.
15. There are consequently no material considerations in this case to indicate that the appeal should be determined otherwise than in accordance with the development plan.

Conclusion

16. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR