



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: 12th April 2022

Appeal Ref: APP/B0230/W/21/3282913

70 New Bedford Road, Luton, LU3 1BS

- 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 Denis Nolan (Lansdowne Developments Ltd) against the decision of Luton Borough Council.
 - The application Ref 20/00573/FUL, dated 5 May 2020, was refused by notice dated 30 March 2021.
 - The development proposed is erection of an 11 storey building, comprising of 84 (19 x 1 bedroom, 60 x 2 bedroom, 5 x 3 bedroom) residential units (Use Class C3) with associated pedestrian and vehicular access, car parking and landscaping following demolition of existing unoccupied accommodation.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal proposal seeks planning permission for the redevelopment of a vacant site involving the erection of flats with the highest element being eleven storeys in height. The site currently comprises a vacant social club in a significantly extended nineteenth century villa, one of three such buildings remaining from nine that were originally built on Villa Road. There is a pronounced slope downwards within the site from Villa Road towards New Bedford Road which largely comprises the social club's paved car park.
3. Following the issue of the decision notice the Council has confirmed that the unilateral undertaking submitted with the appeal addresses its reason for refusal relating to affordable housing and financial contributions. I see no reason to disagree with this, and therefore do not need to comment further on this issue.
4. The main issues are therefore:
 - The effect of the proposed development on the character and appearance of the area,
 - The effect on non-designated heritage assets; and,
 - The effect on the living conditions of neighbouring occupiers.

Reasons

Character and appearance

5. The appeal site lies outside of Luton town centre. Villa Road is characterised by a mix of principally residential properties, with no building in the immediate vicinity more than four storeys in height.
6. Beyond that immediate vicinity there are taller buildings rising up to nine storeys in the wider area, including on Midland Road towards the station. Nevertheless, there is a clear visual separation between the appeal site and these much taller buildings.
7. The proposed eleven storey building would therefore be a highly visible feature in the surrounding landscape. The appeal site is relatively prominent with an open frontage onto Hucklesby Way, and even allowing for the proposed landscaping and the siting of the taller block towards the lower end of the site the building would be highly visible. The eleven storey block would be visually and physically separated from the town centre and any buildings of comparable height. Given this separation, and as surrounding buildings are so much smaller, it would be an incongruous building in this location, dominant in the street scene and out of keeping with the scale and pattern of development in the immediate area along Villa Road and facing Hucklesby Way and New Bedford Road.
8. There are substantial buildings along New Bedford Road that are sited higher on the slope including The Mount, but even with the elevated ground level relative to the appeal site these are smaller buildings than that proposed and are well screened by the established planting, including the mature street trees, along that street.
9. My attention has been drawn to the development of New Bedford House as a five-storey building facing two-storey buildings, which was granted permission in 2017. I have limited information regarding this development and the circumstances under which planning permission was granted, but I note that the appeal proposal is substantially taller than New Bedford House with a much greater visual impact on the surrounding area as a result.
10. The external appearance of the building would draw on a palette of materials used locally, as well as including bronze detailing as a reference to Luton's historic hatmaking industry. However, these details would not overcome the dominant height and scale of the proposal.
11. The development would also create a more active frontage along Villa Road, where at present the site is vacant and does not contribute to the vitality of the street. Nevertheless, this factor does not overcome the dominant nature of the proposal.
12. I also appreciate that the proposals evolved after the application was originally submitted following discussions between the appellants and Council and have received the support of the Design Review Panel. However, for the reasons set out above I disagree with the Panel's findings.
13. The proposed development would therefore be harmful to the character and appearance of the area. It would conflict with Policies LLP1 and LLP25 of the Luton Local Plan 2011-2031 (the LP). Taken together these require

development to be of high quality design that will enhance the distinctiveness and character of the area.

The effect on non-designated heritage assets

14. The remaining nineteenth century villas form a group of which the appeal property is the centremost, and they are located at the highest point of Villa Road. Above ground floor the exterior of the property appears largely unaltered. The building contributes to the understanding of development in this area and is recognised as a non-designated heritage asset.
15. The extensions to the appeal property have diminished its original character, and the heritage value of the group has been reduced by the loss of most of the original villas and the alterations and extensions to those remaining. Nevertheless, the total loss of the building would result in some heritage harm from the loss of the building and the interruption of the group. This would be contrary to Policies LLP2 and LLP30 of the LP. These require, amongst other criteria, that heritage assets be protected. This heritage harm must be weighed in the overall planning balance. I shall return to this matter below.

Living conditions

16. Due to its height and massing the eleven storey block would be highly visible from neighbouring properties, in particular the houses facing the appeal site on Villa Road. The block would be set down within the site at a lower point on the slope and therefore would be a significant distance from the facing dwellings. This would prevent the development from causing unacceptable loss of natural light to the neighbouring properties. However, it would still be substantially taller than any other building in the immediate area. As a result, it would be an overbearing presence that would dominate the outlook from neighbouring properties and would draw attention because of its isolation from any other building of comparable height.
17. The appeal proposal would therefore be harmful to the living conditions of neighbouring occupiers. It would conflict with Policy LLP25 of the LP which, amongst other criteria, requires that development be of high quality design responding positively to the townscape, street scene, site and building context.

Other Matters

18. The appeal site lies within the zone of influence for the Chiltern Beechwoods Special Area of Conservation (the SAC). The matter has not been raised by the parties, but nevertheless I have a duty under the Conservation of Habitats and Species Regulations 2017 to determine whether 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

19. The proposed development would create 84 new dwellings, supporting the Government's objective of significantly boosting the supply of homes and contributing to the Council's supply of housing. The development would provide a good standard of accommodation for future occupiers, including outdoor amenity space. While there is no indication that the Council has a shortfall in its supply of deliverable housing land or in its delivery of housing, the provision of

new housing is nevertheless a benefit. The Council has a need for two and three bedroom dwellings, which make up the majority of the proposed units. The appeal site is in a sustainable location and benefits from access to public transport, in particular being a short distance from Luton train station.

20. The proposed development could act as a catalyst for the regeneration of the wider area, although no definite proposals for such a wider scheme have been developed so this therefore attracts very little weight in the overall balance.
21. The appeal proposal would involve the redevelopment of previously developed land and would be carried out using sustainable construction techniques, with reasonable endeavours to employ local people including apprentices and trainees and to source goods and services from local suppliers.
22. The development would also include an interpretation board at the front of the site to reference the contribution of the existing building to the area.
23. Given the scale of the proposals, these benefits cumulatively attract substantial weight in favour of the proposed development.
24. However, the scale, siting and massing of the development would result in harm to the character and appearance of the area, with the eleven-storey block being an incongruous feature in this location. There would be further harm to the living conditions of residents arising from the size and prominence of the taller block.
25. There would also be harm from the loss of the non-designated heritage asset, No 70. Given the diminished value of No 70 this carries limited additional weight.
26. Nevertheless, the harm arising from the proposed development carries great weight given the scale of the proposals. In this instance that harm would outweigh the benefits of the development. There are therefore no material considerations in this case to indicate that the appeal should be determined other than in accordance with the development plan.

Conclusion

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

M Chalk

INSPECTOR