



Appeal Decision

Site visit made on 23 March 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2022

Appeal Ref: APP/B0230/W/21/3281007 243B Dunstable Road, Luton LU4 8BW

- 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 Aqeel Us-Saqalain against the decision of Luton Borough Council.
 - The application Ref 21/00576/FUL, dated 24 April 2021, was refused by notice dated 23 July 2021.
 - The development proposed is erection of first floor extension to form office, replacing existing front windows into shopfront.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of first floor extension to form office, replacing existing front windows into shopfront at 243B Dunstable Road, Luton LU4 8BW in accordance with the application, Ref 21/00576/FUL, dated 24 April 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin no 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: Proposed Ground Floor Plan Drawing Number 1159-01; Proposed First Floor Plan Drawing Number 1159-02; Proposed Elevations Plan Drawing Number 1159-03; View Drawing Number 1159-04; Site Location and Block Plan Drawing Number 1159-05; Existing Plans and Elevations Drawing Number 1159-06 and Street Scene Plan Drawing Number 1159-07.
 - 3) The materials to be used in the construction of the external surfaces of the proposed development hereby permitted shall match those used in the existing building.
 - 4) The first floor windows in the eastern elevation shall be non-opening and fitted with obscure glazing prior to occupation of the development and shall be retained thereafter for the life of the development.

Procedural Matters

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.

3. The development includes a new shopfront, windows and a first floor extension. The reasons for refusal on the Council's decision notice indicate that the extension is the matter in dispute. I have no reason to disagree with the Council's conclusion that the rest of the proposed development is acceptable in planning terms. My reasoning below therefore relates to the first floor extension.

Main Issues

4. The main issues are:

- The effect of the proposed development upon the character and appearance of the area; and
- The effect of the proposed development upon the living conditions of nearby occupiers, namely the occupants of 2, 4 and 6 Ash Road and 243 Dunstable Road with regard to privacy and outlook.

Reasons

Character and appearance

5. The appeal site comprises a single storey commercial building positioned behind a public car park located within a local centre. The single storey scale of the appeal property and its position in the street scene are somewhat at odds with the surrounding built form which comprises two and three storey buildings position closer to the road. There is considerable variation in the scale, form and design of properties in the local centre consistent with its commercial appearance.
6. The proposed development would increase the height of the building to provide additional office space. There is no doubt that the proposed development would alter the appearance of the building with the additional storey.
7. Whilst the proposed development would be taller it would not undermine the character of the area given taller buildings already neighbour it. The design, scale and form of it would be sympathetic to the host property largely replicating the design and proportions of the ground floor and would sit unobtrusively within the street scene.
8. Taking into account the variation in the surrounding built form the proposed development would not appear intensive, incongruous or unduly out of place. It would not be harmful to the overall character and appearance of the site and the area.
9. I conclude that the proposed development would not adversely affect the character and appearance of the area. It would accord with Policies LLP1, LLP23 and LLP25 of the Luton Local Plan (2017) (LLP) which, amongst other things, require high quality design; development to contribute to enhancing a sense of place, preserve or improve the character of the area and strengthen the functional role, vitality and viability of the centre.

Living conditions of existing occupiers

10. I acknowledge that residents along this part of Ash Road currently have an outlook over the appeal site and car park. However, the proposed development would be set a reasonable distance away from these properties.
11. Taking into account its modest height and position relative to these properties it would maintain an open aspect at the end of the gardens and, in my view, would not result in a sense of enclosure or diminish the outlook experienced to a degree that it would be overbearing for existing occupants.
12. I acknowledge the proposed development includes windows that would overlook the amenity space of 243 Dunstable Road. The appellant suggests the windows could be obscure glazed. Considering the proposed development would be used as an office with an open floor plate and other windows in the front elevation I find that this is not an unreasonable suggestion. On this basis I am satisfied that the proposal would not adversely harm the living conditions of the occupiers of No 243 by reason of loss of privacy.
13. Based on the available evidence, it is clear, that there would not be any windows in the rear elevation of the proposed development and thus there would be no overlooking into the properties on Ash Road or their private amenity space.
14. I conclude that the proposed development would not adversely affect the living conditions of nearby occupiers in respect of privacy or outlook. It would accord with LLP Policies LLP1 and LLP25 which, amongst other things, seek high quality design. It would also accord with the National Planning Policy Framework (the Framework) which, amongst other things, seeks to ensure that developments provide a high standard of amenity for existing and future users.

Other Matters

15. The appeal site is located within a local centre and the surrounding roads including Ash Road are not devoid of commercial activity and noise. Whilst the proposed development would increase the quantum of commercial floorspace there is no substantive evidence to indicate that this would increase noise to unacceptable levels given the commercial nature of the surrounding area.
16. I note the representations made in respect of the wellbeing of neighbouring occupants. I have considered this and am, of course sympathetic to the personal circumstances. However, there is no substantive evidence before me to indicate that the proposed development would unduly undermine existing occupant's wellbeing.
17. Right to light is dealt with under separate legislation and is not a matter for me in consideration of this appeal.

Conditions

18. I have considered the imposition of conditions in accordance with the Framework and Planning Practice Guidance. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings as this provides certainty. A condition for matching materials has been imposed to ensure the satisfactory appearance of the development. In the interests of

safeguarding the living conditions of neighbouring occupiers a condition for obscure glazed windows has been imposed.

Conclusion

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

B Thandi

INSPECTOR