
Appeal Decision

Site visit made on 12 July 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2022

Appeal Ref: APP/B0230/W/21/3289973

5 Bishopscote Road, Luton, LU3 1NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by A Asif against the decision of Luton Borough Council.
 - The application Ref 21/01365/OUT, dated 30 September 2021, was refused by notice dated 6 December 2021.
 - The development proposed is construction of a new shop unit with a studio flat over and a loft flat conversion.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal seeks outline permission with all matters reserved for future consideration.

Main Issues

3. The main issues in the determination of this appeal are:
 - Whether the proposed development would accord with relevant policies relating to the provision of retail development,
 - Whether it would accord with relevant policies relating to housing development,
 - The effect on the character and appearance of the area; and,
 - The effect on the living conditions of neighbouring residents.

Reasons

Relevant retail policies

4. The appeal property is part of a short parade of commercial properties between Woodland Avenue and Kennington Road. The parade is not recognised as a Town, District or Neighbourhood Centre under Policy LLP21 of the Luton Local Plan November 2017 (the LP). New retail development of the scale proposed is required to meet the sequential test and show that the vitality and viability of the Centres would not be significantly adversely affected by the development.
 5. The appellant has not provided any evidence to suggest that the development would meet the sequential test. They have suggested that, as the proposal is for outline consent, the development could include the extension of the existing shop unit. This would not trigger the requirement for the sequential test.
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However, the development is described in part as a new shop unit, which I do not consider can be read as excluding an entirely new retail property.

6. In the absence of a sequential test, the appeal proposal therefore conflicts with the requirements of Policy LLP21 of the LP that are identified above.

Relevant housing policies

7. Policy LLP15 of the LP directs new housing development in the borough and requires that it meet the requirements of the Strategic Housing Market Assessment (SHMA). The SHMA identifies a need in the local housing market for two-bedroom units but also that there is an overprovision of one-bedroom units. The appellant suggests that there is a local demand for letting this type of unit but has not produced any evidence to support this. Consequently, the appeal proposal conflicts with Policy LLP15 of the LP.

Character and appearance

8. The appeal site is a vacant yard to the side of no 5. At present the side elevation of no 5 is in line with the front walls of the surgery to its rear and the houses on Montrose Avenue opposite the site. This consistency contributes to the overall character of the street scene and is mirrored in the alignment of the houses on the other side of the junction of Montrose Avenue and Woodland Avenue.
9. However, no 5 presents its flank elevation to Woodland Avenue, unlike the other properties either side of the junction, so is already an unusual feature in the wider street scene. In addition, the appeal site at present is an unattractive yard that is almost wholly open and detracts from the overall character and appearance of the area. An appropriately scaled and designed development could improve the overall appearance of the site, even if it would not maintain the consistency of the building line.
10. Given that this is a proposal for outline permission with all matters reserved, control over the final appearance of the development would lie with the Council. In the absence of these details, it cannot be said that the development would be harmful to the character and appearance of the area. The proposal would therefore, in principle, accord with Policies LLP1, LLP15 and LLP25 of the LP. Taken together, these policies require that development contribute to enhancing a sense of place and preserve or improve the character of the area.

Living conditions

11. The appeal seeks outline planning permission only, with no details of the scale or layout of the development provided. While the introduction of an additional shop and dwellings would be a more intensive use of this site, it is in an area with several established commercial properties amongst the surrounding houses. Subject to the development being of an appropriate scale and layout, which could be controlled through the reserved matters, it would not be harmful to the living conditions of neighbouring occupiers. It would not therefore conflict with Policies LLP1 and LLP25 of the LP, the requirements of which include that development minimise noise, overlooking and overshadowing/loss of light.

Planning Balance

12. The development would create new housing, including a two-bedroom unit the need for which is recognised in the Council's SHMA. While this would support the Government's objective of significantly boosting the supply of homes and weigh in favour of the appeal proposal, the proposed housing mix would overall conflict with the need established in the SHMA. In addition, no sequential test has been carried out to show that the appeal site is a suitable location for new retail development.
13. There are therefore no material considerations to indicate that this appeal should be determined otherwise than in accordance with the policies in the LP.

Conclusion

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

M Chalk

INSPECTOR