



Appeal Decision

Site visit made on 7 September 2022

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2022

Appeal Ref: APP/B0230/W/21/3289602

21 King Street, Luton LU1 2DW

- 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 Sohail Nawaz against the decision of Luton Borough Council.
 - The application Ref 21/00947/FUL, dated 1 July 2021, was refused by notice dated 1 October 2021.
 - The development proposed is described as proposed conversion of upper floors of the existing building and erecting a new mansard roof with roof terrace and a second floor rear extension and roof alteration to provide 5 flats (3x 2 bedroom, 1 x 1 bedroom and 1 x studio flat).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's officer report identifies the appeal site adjoining Grade II Listed buildings on both sides, 19 and 23-27 King Street. The Council have confirmed that 19 King Street is not a listed building, and this is an error in the officer's report. I have proceeded on the basis that 19 King Street is not a listed building.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of 21 King Street (No 21);
 - the effect of the proposed development on designated heritage assets with particular regard to the Town Centre Conservation Area (CA) and 23-27 King Street (No 23-27), a Grade II Listed Building;
 - whether the proposed development would provide satisfactory living conditions for the future occupiers with particular regard to noise and odour; and
 - the effect of the proposed development upon the living conditions of neighbouring occupiers at 4 George Street West (No 4 GSW) with particular regard to overlooking.

Reasons

21 King Street

4. There is a diverse appearance to the area with more modern or recently altered buildings set amongst traditionally designed buildings which have retained their original façade and roof shape. King Street is sloped and by virtue of the setback of the adjacent properties at 19 King Street and King House, the appeal building, and its large gable flank occupy a prominent position on the street whereby its original roof form is clearly evident.
5. The appeal building whilst in need of some maintenance is an attractive 19th Century property constructed over 3-storeys with a long rear out-rigger and small yard area. Constructed in grey brick with stucco detailing including quoins, banding and surrounds with a slate roof the building has largely retained its original form above ground floor level. The ground floor has seen some more modern alterations, this does not however, alter the coherent design features and materials which provide a pleasant character and uniformity to the building.
6. Despite the use of matching materials to other buildings found in the nearby area, the alteration of the gable elevation and introduction of a mansard roof and dormers would give the appearance of adding considerable bulk and massing to the side and front roof of the property which would result in an incongruous form of development which detracts from the buildings fine front façade and traditional gable roof. Consequently, the proposal would not respond positively to its context and would detract from the character and appearance of No 21.
7. The conversion of the building and the effect of the proposed alterations to the rear out-rigger, in regard to character and appearance, has not drawn objection from the Council and is not referenced within the reason for refusal. Given the lack of visibility of that element of the scheme from many public vantage points, and the prevailing variety in the form and arrangements of rear elevations in the area, I have no reason to disagree.
8. For the above reasons, I conclude that the proposed development would result in harm to the character and appearance of No 21. Accordingly, the proposal would conflict with the relevant provisions of Policies LLP1 and LLP25 of the Local Luton Plan (2017) (LLP). These policies seek, amongst other things, that new development preserves or improves the character of the area and is of high-quality design. The proposal would also conflict with the provisions of paragraph 130 of the National Planning Policy Framework (the Framework), which seeks to ensure that development is sympathetic to local character.

Heritage

9. The appeal site is located within the CA. As such I have had regard to the duty to pay special attention to the desirability of preserving or enhancing its character or appearance. In addition, the appeal building adjoins No 23-27 a Grade II listed building and therefore I have had special regard to the desirability of preserving the building its setting and any features of special architectural or historic interest which it possesses.
10. The significance of this part of the CA lies, largely with the form, scale, detailing and materials of its buildings. As I have set out there is variance with

building heights and designs which includes more modern buildings within the streetscene of King Street. However, many of the properties are of traditional appearance and have a degree of consistency.

11. No 23-27 is a 3-storey Grade II listed building, it derives its significance from being an impressive example of period architecture incorporating fine architectural detailing and degree of uniformity with the front elevations of adjacent buildings. Whilst it is a mid-terrace building its fine detailing and elevated roof ensure it is prominent within the streetscene particularly when viewed from the slope heading up King Street.
12. The appeal property whilst not locally or nationally listed makes a positive contribution to the CA due to its prominent location and architectural features. The terraced row from the appeal building up to and including 39 King Street shares such characteristics and partly as a result of its largely unaltered roofscape along this section of the street makes a positive contribution to the setting of the CA.
13. Whilst the proposed mansard roof would appear to be set back from the front elevation, it would still remain visible from various viewpoints along King Street. Within these views, the resulting scale and massing of the mansard roof and built-up flank wall would appear as a bulky and incongruous addition that would significantly alter the existing roofscape and erode the staggered gables on this section of street.
14. This unsympathetic alteration and loss of cohesion to the terrace would detract from the contribution the host building and the terrace row makes to the setting of the CA, therefore harming its significance. Furthermore, the relationship between the subservient roof of No 21 and the roof of No 23-27 would be lost. This would intern erode the visual prominence of the listed building harming its setting.
15. My attention has been drawn to an appeal decision at 30A King Street¹ and roof alteration at No 7-11 King Street. Whilst both are within the CA, 30A King Street was a single-storey building adjacent to a more modern taller building seeking to replicate the adjoining roof shape. The development granted at 7-11 King Street, as noted by the appellant, was done so following a fire. From my observations, considerable alterations to the external facades of the building alongside roof alterations have also taken place. These examples are materially different to the proposal before me which also includes the effect upon a listed building.
16. The appellant has provided details on a recently approved scheme adjacent to the appeal site². I acknowledge the information provided but it is a substantially different scheme to the one before me which is a more compatible design with that of the host building and does not alter my findings to the harm that would be caused to No 21 or designated heritage assets from the proposed scheme.
17. For the purposes of the Framework, the CA and listed buildings are designated heritage assets. Within the overall context, I consider that the proposal would lead to less than substantial harm to the significance of these assets. The Framework indicates that such harm is to be weighed against the public

¹ Ref: APP/B0230/W/20/3260984

² 21/00696/FUL

benefits of a proposal. However, great weight should be given to an asset's conservation.

18. The proposed development would deliver social and economic benefits associated with the increase in housing accommodation. There would be a small increase in support for local services and facilities close by from occupiers of the flats. There would be some temporary economic benefits through support for construction jobs. I have also considered the evidence in relation to the condition of No 21 both internal and externally and how this would be improved.
19. However, given the relatively small scale of the development, these public benefits can only be attributed moderate weight. Conversely, the less than substantial harm to the heritage assets should be afforded great weight, in line with the provisions of Framework Paragraph 199. The modest public benefits of the proposed development would not outweigh the less than substantial harm that would be caused.
20. Consequently, the development proposed would be contrary to Policies LLP1, LLP25 and LLP30 of the LLP. These policies seek, amongst other things, that new development preserves or improves the character of the area, is of high-quality design and protects heritage. The proposal would also conflict with the provisions of the Framework, which seeks to sustain and enhance the significance of heritage assets. In reaching this conclusion, I have had regard to the statutory duties under sections 66(1) and 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990.

Living Conditions – Future Occupiers

21. The appeal site is located close to a nearby nightclub as well as a number of other commercial and recreational uses. Other residential properties are also within close proximity of the site. Nevertheless, the site is primarily within a commercial area where a number of existing businesses operate up to and including late night and early morning.
22. Paragraph 187 of the Framework, advises where the operation of an existing business or community facility, including change of use, could have a significant adverse effect on new development, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
23. The Council in their statement have noted the potential conflict with nearby noise and odour generating premises which are outside of the appellants control. In these instances, the Council seek the information prior to determination. However, I note the Council's Environmental Health Officer is satisfied that subject to appropriate assessments the area is acceptable for residential use.
24. I have had regard to the Council's evidence and the policies put before me but there appears to be little to demonstrate why conditions requiring a scheme to provide adequate mitigation would not be acceptable in this case. Furthermore, there is already existing residential accommodation in close proximity to the appeal site and I have not been provided with any evidence of complaints which demonstrate there is an ongoing issue with noise or odour in the area.

25. For the above reasons and subject to conditions and satisfactory mitigation on noise and odour, the proposal would not result in an adverse effect on the living conditions of future residential occupiers with respect to noise and odour. Consequently, the proposal would accord with Policies LLP1 and LLP25 of the LLP which, amongst other things, seeks to avoid adverse impact on amenity. The proposal would also accord with the provisions of the Framework in so far as it relates to providing a high standard of amenity for future users.

Living Conditions – Neighbouring Occupiers

26. The appeal site is in a dense urban area where limited separation between buildings of differing scale is typical. The side, rear windows and balconies proposed as part of the appeal scheme would overlook the former carpark which serves as an entrance to the flats of No 4 GSW.
27. From my observations there are many instances of overlooking from the existing relationship this area shares with surrounding buildings which are in a mixture of uses. Whilst I accept there would be a limited degree of overlooking should the appeal succeed; I find this would not be significantly harmful to occupiers of No 4 GSW given the existing inter-relationship with nearby buildings that currently exists.
28. I, therefore find that the proposed development would not have an unacceptably harmful effect on the living conditions of the occupiers of No 4 GSW and would therefore be compliant with Policies LLP1 and LLP25 of the LLP which, amongst other things, seeks to avoid adverse impact on amenity. The proposal would also accord with the provisions of the Framework in so far as it relates to providing a high standard of amenity for existing users.

Other Matters

29. I acknowledge the appellant's comments in relation to the success of the appeal in allowing maintenance of the building to prevent damp or other damage to the adjoining listed building. However, this does not outweigh the harms I have set out above.
30. I accept that there is some local support for the proposed development and that it would improve the appearance of the area and there have been other nearby roof top extensions and alterations. I have taken these into account, however, for the reasons set out above I have found that the proposal would cause harm to the character and appearance of the CA and the listed building.
31. Whilst the appellant has altered the scheme following pre-application advice from the Council I have found that the scheme before me would lead to harm.

Conclusion

32. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
33. For the above reasons, I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR