



Appeal Decision

Site visit made on 10 January 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2023

Appeal Ref: APP/B0230/W/22/3305813

107 Tennyson Road, Luton LU1 3RR

- 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 J Shahid against the decision of Luton Borough Council.
 - The application Ref 22/00442/COU, dated 14 April 2022, was refused by notice dated 28 June 2022.
 - The development proposed is change of use of four bedroom house and summer house to 8 houses in multiple occupation with ensembles.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of four bedroom house and summer house to 8 bedroom house in multiple occupation with ensembles at 107 Tennyson Road, Luton LU1 3RR in accordance with the terms of the application, Ref 22/00442/COU, dated 14 April 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: mma.477A, mp.2434, mp.23434B.
 - 3) The development hereby permitted shall not begin until details of cycle storage facilities to serve the occupiers of the development have been submitted to and approved in writing by the local planning authority. The approved storage facilities shall be provided before the development is first occupied.
 - 4) No more than 8 residents shall occupy the house in multiple occupation hereby permitted at any one time.

Preliminary Matters

2. The description in the header is taken from the application form. The appeal form gives a slightly different description which makes it clearer that the proposed use is a 8 bedroom house in multiple occupation (HMO). For clarity purposes, I have used part of the revised description in my decision. I am satisfied this would cause no injustice as the amended description has been used by both main parties and in the publicity of the planning application.
3. With the appeal, the appellant has submitted plans that were not with the Council at the time it determined the planning application. These show minor changes to the layout of the bedroom with ensuite in the summer house as well as an amendment to the position of some of the ensembles inside the house. The

Council and interested parties have had an opportunity to comment on the revised plans as part of the appeal process and the amendments do not fundamentally alter the appeal development. As such, I am satisfied that no injustice or prejudice would be caused by taking the revised drawings into account.

4. On my visit, I saw that all of the proposed bedrooms contained bedroom furniture, although not all of the rooms seemed to be occupied. Therefore, my observations support the claim on the planning application form that the proposed use has not started. I have determined the appeal on this basis.

Main Issues

5. The main issues are (i) whether the development would provide acceptable living conditions for future occupiers in terms of the amount of internal space, (ii) its effect on housing mix, and (iii) its effect on the living conditions of occupiers of nearby residences with regard to noise.

Reasons

Living conditions for future occupiers

6. Policy LLP17 of the Luton Local Plan 2017 (the LP) states that the sub-division of an existing building to create a new HMO will be permitted subject to various provisos. These include that the accommodation conforms with adopted licensing and amenity standards as well as design requirements as set out in LP policy LLP25.
7. The appellant's appeal statement refers to the Council's HMO standards document, although this has not been provided. According to the appellant, this document sets out a minimum size standard of 6.51m² for rooms to be used for sleeping. The Council has not sought to dispute the appellant's claim that all of the bedrooms would meet this floorspace requirement. Also, the Council accepts that the arrangement of the rooms would provide an appropriate amount of light and outlook. As such, it would seem that the proposed accommodation would conform with the Council's adopted standards.
8. The Council claims that the size of the bedroom to the rear at ground floor level and to the front on the second floor would be too small to meet the nationally described space standards. However, these standards have not been formally adopted by the Council for the purpose of assessing the acceptability of development proposals. In such circumstances, an assessment of the bedroom sizes against the Council's own adopted HMO standards is a more appropriate method of gauging the acceptability of the scheme. LP policy LLP25 includes external space standards but contains no particular requirements in relation to internal areas.
9. On my visit, I saw that part of the front bedroom at second floor is affected by reduced headroom due to the internal roof slope. However, this part of the room was used to accommodate a bed and the room contains an area where the floor to ceiling height allows standing. The occupier of this room would also have access to the communal kitchen and living area on the ground floor along with the other residents.
10. For these reasons, I conclude that the development would provide acceptable living conditions for occupiers in terms of the amount of internal space. In

these regards, the development would accord with LP policies LLP17 and LLP25. The Council's refusal reason also refers to LP policy LLP1 but this contains no provisions relevant to this particular issue.

Housing mix

11. LP policy LLP15 states that the size, type and tenure of new dwellings shall reflect the identified needs of the area as established through the strategic housing market assessment. The Council refers to a strategic housing land availability assessment from November 2019. This identifies a need for 2590 dwellings with 4 or more bedrooms, whereas between 2011 and 2019 only 333 such residences were delivered. The Council contends that such figures show a high need for large single household dwellings. Concern is raised that the appeal development would exacerbate this identified shortage through the loss of a 4 bedroom house.
12. While noting the Council's comments on the need for large dwellings, there is limited information before me on whether or not there is also a need for additional units to accommodate individuals rather than larger households. The Council states that there is no evidence of an unmet need for HMO's but the appellant claims the development would help alleviate the lack of accommodation for students, teachers and young professionals. Also, I am mindful that LP policy LLP17 is generally permissive of new HMOs and it does not require a need for such accommodation to be demonstrated. Therefore, even if the Council's contentions in respect of large, single household dwellings is accepted, I am satisfied the development would help meet a need for a particular type of residence that is recognised through the provisions of the LP.
13. The Council suggest that there is an ever increasing number of HMOs within the borough and I note permitted development rights allow the re-use of dwellinghouses as HMOs. In addition, the appellant's submissions indicate that there are other HMOs on Tennyson Road and nearby streets. Even so, it would appear that the majority of residences within the vicinity of the appeal site are in use as single household dwellings and so there is not an excessive number of HMOs in the local area. Also, the replacement of 1 family home with a HMO would have no meaningful effect on the mix of dwelling types in the borough when considered as a whole.
14. For these reasons, I conclude that the development would have an acceptable effect on housing mix. In these regards, it would accord with LP policy LLP15 and the aim to provide a mix of housing types and sizes. LP policy LP1 contains no provisions relevant to this issue.

Living conditions of occupiers of nearby residences

15. The appeal property adjoins residences on either side. It has a back garden with an outbuilding towards the rear of the site which would be used as a bedroom under the proposal.
16. The provision of 8 bedrooms suggests the development would lead to an increase in the number of occupants compared to the property's use as a four bedroom dwelling. Even so, the site would remain in residential use and so its character would not significantly change.
17. The Council raises concerns over additional coming and goings as well as people talking outside and emptying bins. However, these types of activities

are normal at residences and there is no convincing evidence to show they would cause undue disturbance because of extra people residing at the property. Even when taking into account the bedroom in the outbuilding, I am satisfied the HMO use would not lead to inappropriate nuisance to nearby residents.

18. Accordingly, I conclude the development would not have an unacceptable effect on the living conditions of occupants of nearby residences by reason of noise. Therefore, it would accord with LP policy LLP25 which looks to ensure new housing minimises noise. LP policies LLP1 and LLP17 are referred to but include no provisions relevant to this particular issue.

Other Matters

19. Other issues have been raised by interested parties. The appeal property includes no off-road parking and on my visit I noted that kerbside parking is prevalent in the vicinity of the site. I envisage that parking pressures increase at times of the day when pupils are being dropped off or picked up from the 2 nearby schools. However, street parking is allowed on significant lengths of Tennyson Road and on other nearby streets. There is no substantive evidence to show the proposal would lead to a level of additional parking which would prejudice highway safety or would cause any other problem.
20. I understand that building works at the property have previously caused disruption to some neighbours. However, no enlargement or other alteration that would change the external appearance of the building is proposed under the appeal scheme. As such, the development would avoid harm to adjoining properties by reason of construction noise, visual intrusion, loss of light or privacy. Also, while noting comments on police visits to the site, there are no grounds to find that the proposed use is bound to lead to any anti-social behaviour.
21. The back garden provides sufficient space to store bins and for other activities incidental to the HMO. I see no reason why bins left out for collection of waste would cause unacceptable visual harm. A side passageway provides easy access between the road and the back of the property for movement of waste and in case of emergencies. There is no evidence to substantiate concerns that the development would put an unacceptable demand on services.
22. The site lies in the Luton South Conservation Area, which seems to gain its significance from the age and architectural and aesthetic interest of some of the buildings. The appeal property is typical of houses in the road and is of some age and so it contributes positively to the area. However, no external alterations are proposed and so the development would preserve the character and appearance of the Conservation Area.
23. None of the above issues provide sufficient justification to refuse planning permission. As such, they do not affect my overall conclusion.

Conditions

24. I have considered the Council's list of suggested conditions against the tests as set out at paragraph 56 of the National Planning Policy Framework. Where appropriate I have amended the wording for reasons of precision.

25. In the interests of clarity, I have attached a condition that lists the approved plans. To promote sustainable modes of travel to and from the development I attach a condition regarding cycle storage. However, I see no reason why a planning condition on bin storage facilities is needed given that there is adequate and appropriate space in the back garden.
26. Given the amount of internal space and to ensure a satisfactory living environment, I impose a condition that limits the number of residents. The Council has also suggested a condition regarding the management and maintenance of internal and external common areas. However, no planning policy is referred to that requires such matters to be approved and I am unconvinced that the suggested condition is relevant to planning. Also, the monitoring of compliance with such a condition would be difficult and so it is questionable whether it would be enforceable. Therefore, I have not included this a condition.
27. The Council suggest a condition that removes permitted development rights regarding external alterations to the building. However, no reason for this condition has been provided and I find it is unnecessary in order to make the proposed development acceptable.
28. An internal Council memorandum has been submitted suggesting the imposition of a planning condition regarding noise impact and sound insulation. However, these comments are made on the basis that the property has not already been insulated and it is clear that the author of the memorandum is uncertain whether that is the case. Also, the comments fail to refer to any development plan policy that requires noise assessments or sound insulation as suggested. I am mindful that the appeal property is an authorised dwelling and that the Council has not shown why further noise mitigation or sound insulation is required to provide satisfactory living conditions for occupants or for neighbours. Therefore, the suggested condition is unnecessary and it is not imposed.

Conclusion

29. I have found the proposal would be acceptable in respect of the main issues and that there is no reason to justify refusing planning permission. The scheme would accord with development plan policies and so I allow the appeal.

Jonathan Edwards

INSPECTOR