
Appeal Decision

Site visit made on 19 July 2022

by John Gunn Dip TP, Dip DBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/B0230/W/21/3288371

478 Leagrave Road, Luton LU3 1RH

- 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 Miss Sylvia George against the decision of Luton Borough Council.
 - The application Ref 20/00155/FUL, dated 29 January 2021, was refused by notice dated 2 July 2021.
 - The development is described on the application form as the 'Change of Use of Dwelling to Commercial Use as Office'.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 11 August 2022

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I note that a revised description has been used on the decision notice which refers to the application being for retrospective planning permission. There is no dispute between the parties in this regard. Nonetheless 'retrospective' is not an act of development and accordingly, I have used the description given on the original application.

Main Issues

3. The main issues are the effect of the development on:
 - the supply of housing in the Borough;
 - the character of the area; and
 - the living conditions of occupiers of nearby dwellings, with particular reference to noise and disturbance.

Reasons

Housing Supply

4. Part C of Policy LLP15 of the Local Luton Plan 2011-2031 (LP) allows the redevelopment of existing housing to other uses, subject to, amongst other matters, there being an overriding need for the other use, which provides benefits to the community which outweigh the loss of housing.

5. The use assists with the care of people within their own homes or care facilities. 5 full time equivalent employees (FTE) operate from the property, with their principal role being the management of care contracts and organisation of care workers. The appellant asserts that this accords with the Government's intention to provide services in residents own home for as long as possible. In this regard I acknowledge that the service beneficially supports the care industry. It also facilitates the employment of a further 24.5 FTE positions elsewhere in the area.
6. In this regard I have taken into account the appellant's assertion that it is advantageous for the service provider to be based in and around residential areas. However, that does not preclude alternative locations. Moreover, there is no compelling evidence to indicate that the use has to take place at the appeal site with the consequential loss of a family dwelling. In particular no information has been presented to me to indicate the geographical spread covered by the business, or why the appeal site is better placed than other potential commercial properties that might be available.
7. In this regard the Council has indicated that office space could be provided within established centres such as Luton Town Centre or the Bury Park District Centre, which are located a short distance to the east and south of the appeal site. Whilst noting the appellant's comment that office space is more difficult to procure due to changes in 'permitted development' rights, I have no evidence before me to demonstrate that suitable accommodation could not be found within those, or similar locations, that would meet the needs of the appellant.
8. I acknowledge that there are a number of commercial premises, on the northern side of Leagrave Road, as indicated in evidence by the appellant. However, from observations I made of my site visit I saw that those properties were located a significant distance to the east of the appeal site. Moreover, they are located on street corners and appear to have been in existence for several years. I have no specific evidence before me with regards to their planning history. Consequently, they are not directly comparable with the appeal proposal, which sits in the middle of a row of semi-detached dwellings.
9. I accept that the loss of one family sized dwelling would be limited when compared with the overall needs of the Borough. Nonetheless, it would result in the loss of the accommodation which would otherwise contribute towards the identified housing needs of the Luton Housing Market Area as set out within the Strategic Housing Market Assessment. Notwithstanding the limited loss that results from the development this weighs against the scheme.
10. Accordingly, I conclude on this main issue that the development results in the loss of a family dwelling, to the detriment of the supply of housing in the Borough, without compelling evidence to substantiate the new use. Consequently, in respect of this issue the development is in conflict with Policies LLP1 and LLP15 of the LP which together seek, amongst other matters, to encourage growth and sustainable development, manage change and deliver housing to meet the needs of Luton and the Luton Housing Market Area. These policies accord with sections 2 and 5 of the Framework which respectively relate to achieving sustainable development and delivering a sufficient supply of homes.

Character

11. The appeal site is located on the northern side of Leagrave Road. Leagrave Road provides a distinct boundary between predominantly residential properties on the north side of the road, and employment areas to the south. This distinction can be clearly seen on the extract from the LP policies map included within the appellant's statement.
12. The dwellings on the northern side of Leagrave Road, in the immediate vicinity of the appeal site, consist of semi-detached houses set back a modest distance from the highway. Forecourt parking is a prominent feature of many of the dwellings, albeit some properties have retained gardens with limited soft landscaping.
13. I saw that Leagrave Road is an area of transition. Whilst it is not a mixed use area in the true sense of the word, due to the strict separation of uses on the north and south side of the road, the area does exhibit both residential and commercial characteristics.
14. No external changes are proposed to the appeal property, and on my site visit, I saw no discernible visual difference between the appeal property, and neighbouring dwellings, that would suggest that it was being used for office purposes. Moreover, the number of vehicles being parked at the property was comparable with other residential properties in the road. I accept that this only represents a snapshot in time, but I have no substantive evidence to indicate that it is not representative of what would occur at other times of the day and week.
15. Consequently, given the absence of any perceptible change to the external appearance of the appeal property, and the particular locational circumstances, I find that any harm to the character of the area is very limited. Accordingly, in respect of this issue the development is not contrary to Policies LLP1, LLP2, LLP13 and LLP25 of the LP which seek, amongst other matters, sustainable development that supports population growth and improves the character of the area. In respect of this issue, it would also accord with the sections 2 and 12 of the Framework which respectively relate to achieving sustainable development and achieving well-designed places.

Living Conditions

16. The Council are concerned about noise and disturbance resultant from a 'significant' increase in movements to and from the site.
17. In this regard I have taken into account the background noise level arising from traffic noise that was clearly evident at the time of my site visit. Whilst I acknowledge that traffic volumes will fluctuate throughout the day and week, I have received no substantive evidence to indicate anything other than that traffic noise would be likely to be evident for most of the day. Consequently, any additional noise arising from the limited number of movements to and from the site are not likely to be significant.
18. Moreover, no clear explanation is provided in the Officer Report insofar as other possible 'nuisance' that might arise from the development. In this regard, I note that 5 FTE are employed at the property and there are no ad hoc visits by customers. Given this number of employees the number of movements is likely to be low and comparable to that of a dwelling. Even if the numbers were to

increase, the mere presence of staff arriving and leaving the premises would not, in itself, be sufficient justification for dismissing the appeal. This is particularly the case given the level of activity, including pedestrian movements, that already takes place on Leagrave Road.

19. The appellant states, in their appeal statement, that opening hours could be restricted by way of a condition. In this regard I note the draft conditions submitted by the Council proposes such a condition which reads 'The commercial use as office (Class E) hereby permitted shall only operate between the following hours Mondays to Fridays 9am to 5:30pm and not at all on Saturdays, Sundays or Bank Holidays'. In the circumstances of this case such a condition would assist in ensuring that that disturbance is not caused during 'unsocial' hours i.e., late at night or on Sundays or Bank Holidays. These hours would be more restrictive than those proposed by the appellant on their application form which was for 0800-1700 Monday-Friday and 1000-1400 on Saturday. Notwithstanding other matters raised elsewhere in this decision, if I were to allow the appeal, and taking into account the existing level of activity within the locality, I consider that hours indicated by the appellant would be reasonable.
20. In light of the above, I conclude on this issue, subject to a condition relating to opening hours that the development would not harm the living conditions of occupiers of nearby dwellings, with particular reference to noise and disturbance. Consequently, in respect of this issue the development would be in accordance with Policies LLP1, LLP15 and LLP25 of the LP which seek, amongst other matters, to manage change and create quality places that minimises noise, overlooking and overshadowing. It would also accord with paragraph 130 of the Framework which seeks, amongst other matters, to ensure that developments create places with a high standard of amenity for existing and future users.

Conclusion

21. I have found that there would be limited harm with regard to the character of the area, and no harm to the living conditions of occupiers of nearby dwellings, subject to appropriate conditions. However, my findings on those two main issues do not deflect from or outweigh the harm I have found with regard to the supply of housing in the Borough.
22. For the reasons given above, having considered the development plan as a whole and all material considerations, the appeal is dismissed.

John Gunn

INSPECTOR