



Appeal Decision

Site visit made on 6 February 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2024

Appeal Ref: APP/B0230/W/23/3327344

30 Hillborough Road, Luton LU1 5EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ashok Khuttan against the decision of Luton Borough Council.
 - The application Ref is 23/00434/FUL.
 - The development proposed is change of use of existing HMO into two flats, 1 one bed and 1 two bed flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

Main Issues

3. The main issues are:
 - Whether the proposed change of use is acceptable, with particular regard to the effect on the supply of larger houses;
 - The effect of the proposal on the character of the area; and
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

Change of use

4. The appeal site comprises a 2-storey semi-detached house, with accommodation in the roof space. The evidence indicates that it is currently in use as a small house in multiple occupation (HMO) for up to 6 residents (use class C4). The proposal seeks to subdivide the existing house into 2 self-contained flats. The tenure of the flats would be market housing.
5. Policy LLP15 of the Local Luton Plan 2011-2031 November 2018 (the Local Plan) states that planning permission for residential development will be granted on sites not allocated for housing provided it would not lead to a loss of other uses for which there is a recognised local need. It also indicates that development will achieve a mix of different housing sizes, types and tenures informed by the latest housing market assessments and local circumstances.

6. While Policy LLP15 of the Local Plan may not explicitly refer to house conversions or HMOs, the appeal proposal constitutes residential development through the provision of additional units of housing, in this case flats. Policy LLP15 is therefore relevant in this instance.
7. The Central Bedfordshire & Luton Strategic Housing Market Assessment (SHMA) (January 2018) indicates that most of the market housing need in this area is for 2+ bedroom houses, with the need for flats representing only around 5% of the total market housing need. The SHMA shows that the greatest need is for 3-bedroom houses, followed by 4-bedroom houses.
8. Nevertheless, the Luton Strategic Housing Land Availability Assessment November 2019 (SHLAA) states that development activity continues to be concentrated on the provision of smaller properties, reflecting the delivery of flatted accommodation. The SHLAA indicates that between 2011 and 2019, the majority of new dwellings delivered were 1 or 2 bed units.
9. Though the existing house is currently in use as a small HMO, in its current condition it continues to contribute towards the supply of 4+ bedroom houses in the area. Planning permission would not be required for its future use as a single-family home, and the plans and evidence before me indicate that it could revert to this use with ease. Additionally, the plot benefits from a large private rear garden and off-street parking and is within an area characterised by larger family housing. It thus remains suitable for use as a single larger house.
10. The appeal proposal on the other hand would formally subdivide the property, providing a 1-bedroom flat at ground floor, and a two-bedroom flat above. Converting the building back to a single larger house would thereafter be more onerous. This would represent a barrier to its use as a single larger house that does not currently exist, extinguishing the flexibility as to its future use.
11. The proposal would thus lead to loss of the existing larger house, for which there is a recognised local need. Moreover, the proposed housing mix would not reflect the needs identified within the SHMA. While the evidence indicates there remains a degree of need for flats, there is no compelling justification that the delivery of such accommodation should come at the expense of larger houses, for which there is a greater identified local need.
12. I therefore conclude that the proposed change of use is not acceptable, with particular regard to the effect on the supply of larger houses. The proposal would be contrary to Policies LLP1 and LLP15 of the Local Plan. These policies, among other provisions, require all development proposals to have regard to relevant plan policies, seek to deliver sustainable development and ensure new housing helps meet the housing needs of Luton and the Luton Housing Market Area. The proposal would also conflict with Chapter 5 of the Framework, which seeks to support delivery of a sufficient supply of homes.

Character of the area

13. The appeal site is within a residential area. It is predominantly characterised by a mix of detached, semi-detached and terraced houses. Based on the evidence and my own observations, it consists primarily of family sized dwellings.
14. The appeal proposal does not include any external alterations to the existing building and thus its appearance would not appreciably change. However, it

would result in the creation of an additional residential unit within the appeal site and thus would represent an intensification of the existing use.

15. Notwithstanding this, the existing and proposed uses remain residential. The building would have two sets of occupants, and therefore operate differently to a large single-family home. The proposed units may be more suited to single occupants, couples or smaller families. However, any change in activity would likely be modest, and comparable to that of its existing use as a small HMO.
16. I therefore find that the proposal would not have an unduly harmful effect on the character of the area. I have therefore not identified any conflict with Policies LLP1 and LLP25 of the Local Plan in this regard. These policies, among other provisions, seek to deliver sustainable development, and ensure buildings and spaces are of high-quality design, with distinctive character. I have also not identified any conflict with Chapter 12 of the Framework, with respect to its aims of achieving well-designed and beautiful places.

Living conditions

17. The appeal building is a semi-detached house, adjoined to another dwelling. The surrounding area is residential. As set out above, while the building would have two households, any increase in activity would likely be modest, and comparable to that of its existing use as a small HMO. Notably, the Council's Environmental Protection department raised no concerns in this regard.
18. I thus conclude that the proposal would not have an unduly harmful effect on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance. I have therefore not identified any conflict with Policies LLP1 and LLP25 of the Local Plan in this regard. These policies, among other provisions, seek to deliver sustainable development, create high quality and healthy places, and ensure new housing minimises noise. I have also not identified any conflict with Chapter 12 of the Framework, with respect to its aims of achieving well-designed and beautiful places.

Other Matters

19. I recognise that occupation of the house as a HMO results in 6 individuals sharing two modestly sized communal rooms. HMO occupants are typically unrelated and more likely to live somewhat independently of one another. However, there is no compelling evidence to indicate that they would not spend time together while resident in the property, or that it would not be occupied by individuals who are friends, colleagues, or students in future. Moreover, each occupant has their own bedroom, some of which are generously sized. The property also benefits from extensive external space. This would not constitute overcrowding in the terms set out on page 70 of the SHMA and thus the proposal does not represent any significant betterment in this regard.
20. While the application may not have received adverse comments from neighbours or other consultees, the absence of comments in support of or against the application weighs neither for nor against the proposal in this case. This does not therefore lead me to a different conclusion on the main issues.
21. Other than where set out above, I have not identified conflict with any other relevant parts of the development plan or national policy and guidance. However, the absence of harm or development plan conflict with respect to other relevant matters weighs neither for nor against the proposal.

Conclusion

22. The appeal proposal would result in significant harm and development plan conflict in respect of the effect on the supply of larger houses. The proposed change of use is therefore unacceptable in this regard. While I have found the proposal to be acceptable with respect to its effect on the character of the area and living conditions of the occupiers of neighbouring properties, this does not outweigh the identified harm and development plan conflict.
23. I therefore find that the proposed development conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR