



Appeal Decision

Site visit made on 11 March 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2024

Appeal Ref: APP/B0230/W/23/3329224

267 Dunstable Road Luton LU4 8BS

- 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 I Ahmed against the decision of Luton Borough Council.
 - The application Ref: 23/00107/FUL dated 30 January 2023 was refused by notice dated 24 March 2023.
 - The development sought to be approved is Conversion and change of use of a seven bed dwellinghouse into two flats, (1 two bed and 1 four bed) with an additional door on the side elevation.
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Decision

1. The appeal is allowed and planning permission is granted for Conversion and change of use of a seven bed dwellinghouse into two flats, (1 two bed and 1 four bed) with an additional door on the side elevation at 267 Dunstable Road Luton LU4 8BS in accordance with the terms of the application Ref: 23/00107/FUL dated 30 January 2023 and the drawings submitted with it subject to the following conditions:
 - 1) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.
 - 2) The development hereby permitted shall be carried out in complete accordance with the following approved plans: 22084/A102; 22084/A501.
 - 3) The four-bedroom dwelling hereby approved shall not be first occupied unless and until acoustic separation measures to the first floor wall, in accordance with details that have previously been submitted to, and approved in writing by, the Local Planning Authority, have been completed in accordance with the approved details.
 - 4) The four-bedroom dwelling hereby approved shall not be first occupied unless and until the existing drop-kerb has been extended across the full frontage of the appeal site.

Main Issue

2. The main issues are the effect of the development upon:
 - the provision of housing
 - highway safety and
 - living conditions for occupiers

Reasons

Housing Provision

3. The appeal site, No. 267 Dunstable Road (No.267) is a semi-detached two-storey house with loft conversion, limited rear amenity space and frontage parking located on a busy main road. Unlike the predominantly residential side streets which, from my observation, present a much calmer environment, Dunstable Road in the vicinity of No.267 is dominated by traffic, frontage parking and a range of business and secondary retail premises mixed with various housing typologies. Many of these show signs of subdivision or of use as family-sized dwellings now in multiple occupation (HMO). No.267 and its dwelling pair sit between a large extended building in use as a day nursery and, to the west, a line of purpose- (but not recently) built single storey premises¹. There are several business premises in the vicinity of the appeal site.
4. The proposal intends the subdivision of the existing three storey dwelling into a ground level two-bedroom flat and a four-bedroom duplex apartment on the two upper floors, coming with a significant planning history which includes a number of unsuccessful attempts to subdivide or introduce elements of other use. Overall, the living environment for occupiers of No.267 suffers from its main road location surrounded by large number of non-residential uses combined with lack of outdoor amenity space of size and quality that might be desired by a single family unit capable of occupying 7 bedrooms. Such family would likely include several children. This restriction arises due to a shallow plot depth, enclosure from surrounding development, and a single-storey, pitched-roof ancillary building which is designated as a 'granny annex' on the submitted plans² and occupies around half of the rear amenity area.
5. Policy LLP15 of the Luton Local Plan 2017 (LLP) at B) supports the delivery of housing on non-allocated sites *'providing....it would not lead to a loss of other uses for which there is a recognised local need'*. The Council express a general concern as to the loss of family-sized dwellings in the Borough including from their use as HMO, and then indicate that, where HMO exist, that use should not be replaced by conversion to smaller units because such larger units are unlikely to be replaced elsewhere. No express policy provision to underpin this particular aspect of the Council's reasoning has been shown but this approach is consistent with the evidence of housing need provided. However, in this particular case the loss of one unit of 4+ bedroom dwellinghouse stock is substantially mitigated both by the provision of a larger 4-bed apartment and by the poor quality of the outdoor amenity provision of the unit lost.
6. I further note the appellant points³ to an unaddressed need for low-cost accommodation for younger people such as provided by HMO⁴. The effect of the proposal would be, Article 4 directions absent, to facilitate a likely change of the two dwelling units to become small HMO, within the provisions of Part L of the GPDO resulting, according to the appellant, in a capacity of 9 unrelated persons. On that basis, the proposal would likely to bring about the loss of a single family dwelling house and the resulting units for single household use. However, given the conclusions I have reached as to the quality of the existing living

¹ Seemingly Class E uses

² But referred to by the Council as having a use incidental to the occupation of the existing dwelling.

³ In the Strategic Housing Market Assessment

⁴ Set out in Part 3 of Schedule 2 of the Planning (General Permitted Development) (England) Order 2015 (as amended) at Class L.

environment little weight should be attached to that loss in a location which is more suitable for other types of residential use.

Highway safety

7. The property has a paved forecourt which is used for the parking of two cars by occupiers of No.267. That requires reversing onto Dunstable Road. Overall, the provision of parking for occupiers falls significantly short of what would likely be desired by a large family occupying No.267. Although the Council refer to the problem of conflict between users due to the inadequate length of drop kerb, this could (with requirement for cycle/bin storage) be addressed by condition. Occupiers of an HMO would, according to the appellant's statement, be by younger people who need affordable accommodation, and therefore be less-likely car-owners and more likely to use public transport or cycle in this relatively accessible location. For these reasons, I conclude any existing conflict with policies LLP31 and LLP32 would not be exacerbated by the proposal.

Living conditions

8. The Council suggest the proposal would result in an intensification of use leading to noise and disturbance to adjoining users. As to intensification, the existing dwelling has seven bedrooms with the potential to accommodate more than the nine occupiers expected to result from the proposed subdivision. It is noted that the proposal would lead to the insertion of a living room space adjacent to bedrooms in the adjoining dwelling, however, measures to improve acoustic separation can be required by condition. It has been suggested that the works would cause an increase in overlooking of neighbouring users in 2 Chatsworth Road or increased risk of burglary, however, as the proposal does not change fenestration or add built form at the rear, that cannot be the case. On that basis there would be little, if any, additional noise or disturbance and, in consequence, there would be no conflict with Policy LLP25 of the LLP.

Conclusion and Conditions

9. I have concluded that little weight should be attached to the impact of the proposal on housing provision in that the benefits of providing two units (including one family-sized unit) notwithstanding their likely use as HMOs is not outweighed by the benefits of retaining the existing single dwellinghouse due to the less than satisfactory living condition that accrue to users, particularly families with children. Subject to conditions to protect adjoining users from disturbance arising from the insertion of a living room at first floor level and to ensure hindrance to use of the parking spaces by occupiers is minimised, there would be no unacceptable impacts on living conditions or highway safety. Consequently, for the reasons given and taking all matters raised into account, the proposal would not conflict with the development plan taken as a whole. On that basis the appeal succeeds.

Andrew Boughton

INSPECTOR