



Appeal Decision

Site visit made on 25 July 2024

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: **21st October 2024**

Appeal Ref: APP/B0230/W/24/3336682

372 Leagrave Road, Luton LU3 1RF

- 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 Mohammed Tufail against the decision of Luton Borough Council.
 - The application Ref is 23/00971/FUL.
 - The development is described as the erection of single & two storey side and rear extensions, rear dormer and two front rooflights and removal of front bay windows and elevations to render to facilitate conversion of the first and loft floors to a three bed flat (retrospective) and the ground floor to Class E and alterations of fenestration.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During my site visit, I observed that the proposed works had already been completed. I have therefore determined the appeal on the basis that the development has already occurred.
3. In April 2021, the site was granted permission for a single and two-story side and rear extension (21/00001/FULHH), which would create a four bedroom house. However, this permission was not implemented in accordance with the approved plans and enforcement proceedings have commenced.

Main Issues

4. The main issues are:
 - the effect of the development upon the living conditions of future occupiers, having particular regard to internal floor space and amenity space;
 - the effect of the development upon the character and appearance of the site and its surroundings;
 - the effect of the parking and access arrangement on highway safety; and
 - the effect of the development on the stock of housing in the borough and whether there is a need for the Class E floor space at ground floor.

Reasons

Living Conditions

5. Policy LLP25 of the Local Plan (LP)¹ requires new housing to meet external amenity standards which are specified in Appendix 6. For flatted developments, a minimum of 5 sqm of private outdoor space should be provided for 1-2 person flats and an extra sqm provided for each additional occupant.
6. The plans indicate that the development does not provide any external amenity space for future occupiers. It therefore does not adhere to the external amenity standards set out in the above policy for flats. This is significant, particularly for a three-bedroom flat, as it falls below the recommended standards. Although this policy specifically addresses new housing, it remains relevant in this context because it sets a benchmark for the quality of amenity space. The absence of any external amenity space results in inadequate living conditions for future occupiers.
7. In reaching this view, I have considered that there may be other recent flat developments in Luton Town which are similar to the development. However, there is limited information before me regarding the particular circumstances of those developments, specifically regarding whether they comply with this external amenity policy. Nonetheless, it is imperative that I consider the appeal scheme on its own merits.
8. The Government's nationally described space standard (NDSS)² sets out the minimum internal space requirements for dwellings which, in this context, includes flats. The development is over two storeys and includes three bedrooms, so it should have a minimum size of 84 m². However, while the Council has referred to these figures set out under the NDSS, there is no evidence before me that these are measurements which have been adopted in the LP. Nonetheless, the NDSS does emphasise good design and it is consistent with the Framework³. As a result, I attach moderate weight to it.
9. The parties disagree on whether the development complies with the NDSS. However, neither party has submitted any evidence regarding the precise size of the flat in square metres. Instead, the appellant has provided a plan which includes room-by-room measurements. Based on this information, it is considered likely that the gross internal area would be greater than the required 84 m². Nonetheless, the development fails to provide any outdoor amenity space for the use of future occupiers. This would result in a confined living experience, as there would be insufficient space to accommodate even a minimal level of outdoor domestic activities.
10. In conclusion, the development would not provide appropriate living conditions for future occupiers, with regard to amenity space. Accordingly, it would not demonstrate adherence to the best practice principles of urban design, contrary to Policy LLP25 of the LP. Accordingly, it would not accord with local plan policies, contrary to LLP1 of the LP. While it is considered likely that the development would meet the internal floor space standards set out in the NDSS, it would still fail to align with the aims and objectives of the Framework.

¹ Local Luton Plan 2017

² Technical housing standards – nationally described space standard, March 2015

³ National Planning Policy Framework

11. The Council also cites conflict with policies LLP15, LLP19, LLP31 and LLP32 of the LP. However, these are not relevant to the main issue as they instead relate to housing provision, extensions to dwellings and annexes, sustainable transport and parking. Moreover, I have not been drawn to any wording in these policies that relate to this main issue. Accordingly, they have not been referred to in my conclusion.

Character and appearance

12. The appeal site consists of a pair of semi-detached, two-storey buildings which are typical of the surrounding area. It is situated between a commercial food shop on one side and a public building on the other. The immediate street scene on this side of Leagrave Road is characterized by evenly spaced pairs of houses, aligned in an orderly manner and often framing small open spaces between them. This arrangement creates a strong rhythm in the street scene and contributes to a sense of spaciousness in an otherwise densely built urban environment. In contrast, the opposite side of the road is dominated by semi-industrial buildings, including several MOT centres, car body shops, and vehicle repair shops.
13. In terms of scale, mass, and bulk, the side extension of the development has removed the open space that previously existed next to the building. By filling in this area, which was once open hardstanding, the extension has increased the density of built form. The extension is not set down from the original roof height and as such, adds significant bulk, appearing overly large. This change has disrupted the established balance and rhythm of the surrounding buildings and development pattern on this side of the road, negatively impacting the overall sense of spaciousness.
14. The rear extension projects across nearly the entire width of the rear elevation and does not align with the original pitched roof form of the property. Similarly, the rear flat roof dormer appears excessively large and disproportionate to the original property. While there are a few flat roof extensions near this site, none are comparable to the development in terms of scale and size. As such, the increase in built form means that the overall development appears cramped and contrived.
15. In terms of the visual effect of the development, the original frontage of the appeal site featured bay windows and traditional brick materials on the ground floor, with pebble dash on the first floor. While there are some semi-commercial buildings nearby, the buildings on this side of Leagrave Road remain predominantly residential. The replacement of the bay window with a large glass window results in a flat front elevation, contrasting with the prevailing pattern of built form and the established pattern of development on this side of the road. The appeal site's location along the road and the relatively open aspect of the site frontage makes it clearly prominent. As such, it is highly visible from the public realm and has a noticeable, disruptive effect on the street scene.
16. In reaching this view, I have considered that the adjacent building at 374 Leagrave Road has undergone significant alterations, including a large side extension. However, the evidence suggests that the planning permission for this building did not include the render or the removal of the bay feature. These alterations are unauthorised. Therefore, it is not reasonable to use this property as justification for the development.

17. I acknowledge that the design of the development may have been improved from previous applications. However, there is limited information before me regarding the particular circumstances of those applications. In any event, I must consider the appeal scheme on its own merits.
18. In conclusion, the development harms the character and appearance of the site and its surroundings. The scale, mass, design and external materials are not consistent and proportionate with the streetscape, contrary to Policy LLP19 of the LP. It does not respond positively to the townscape, street scene and building context, contrary to Policy LLP25 of the LP. Conflict with these local plan policies, means the development is also contrary to LLP1 of the LP. It also does not comply with the aims and objectives of the Framework.
19. The Council also cites conflict with policies LLP15, LLP31, LLP32 of the LP. However, these are not relevant to the main issue as they instead relate to housing provision, sustainable transport and parking. Moreover, I have not been drawn to any wording in these policies that relate to this main issue. Accordingly, they have not been referred to in my conclusion.

Highway Safety

20. The hardstanding area at the front of the property was previously used as a parking area for the occupiers of the residential dwelling. While the development has not significantly altered this space, it is now intended to be used by both the Class E unit and the residential flat above. For this purpose, the plans indicate that three parking spaces would be located at the front of the appeal site.
21. Although the specific intended use of the ground floor shop is unclear, it is likely that its use for commercial, business and service purposes would generate a relatively high volume of vehicle movements due to the increased footfall and traffic throughout the day.
22. The plans do not provide the dimensions of the proposed parking spaces. Without these measurements, it is unclear whether the frontage offers sufficient depth for parking or if vehicles might encroach onto the footway, obstructing pedestrian traffic. Given the high density of parked vehicles and the limited space available, it is unclear how access to the shops would be maintained. Additionally, no parking plan has been submitted that clarifies how vehicles would enter and exit the site from the road.
23. Due to the limited information available, there is a significant risk that the shop could become difficult to access because of the high density of parked vehicles. During busy periods, there is also the possibility that drivers could park illegally, occupying any available space, which may lead to vehicles being parked in hazardous or inappropriate locations. Without a parking plan to mitigate this risk, there is concern that drivers could reverse onto the road, creating a safety hazard for other vehicles. Therefore, the evidence indicates that the proposed parking arrangement would have a detrimental effect on highway safety.
24. I have considered the potential use of planning conditions. However, imposing a condition to provide further details on the parking layout and accessibility would not be sufficiently precise or reasonable, as it is not possible to assess the impact of the proposed spaces without more information. Therefore, I am

not convinced that such a condition would make the development acceptable in planning terms, given the lack of evidence before me that an appropriate parking provision could be made.

25. In conclusion, the parking and access arrangements of the development would have a harmful effect on highway safety. There would be adverse effects on highway safety, contrary to LLP32 of the LP, which brings conflict with LLP1 of the LP. It would also not comply with the aims and objectives of the Framework.
26. The Council also cites conflict with policies LLP15, LLP19, LLP25 and LLP31 of the LP. However, these are not relevant to the main issue as they instead relate to housing provision, extensions to dwellings and annexes, high quality design and sustainable transport. Moreover, I have not been drawn to any wording in these policies that relate to this main issue. Accordingly, they have not been referred to in my conclusion.

Housing Stock and Need for Class E Floor Space

27. Policy LLP15 of the LP seeks to meet the housing needs of Luton by ensuring that the size, type and tenure provided reflects the housing need for the area. The Council has confirmed that there is a need for three-bedroom dwellings within the borough.
28. The plans indicate that the development contains 3 bedrooms, each with an ensuite bathroom, along with a study, kitchen and living room. Although the development is now a flat rather than a house, it functionally still provides the same number of bedrooms. Additionally, future occupiers would still share the use of common facilities, such as the kitchen and living room. The development preserves the ongoing use of the appeal site as a 3-bedroom dwelling, with no functional difference in terms of the number of available rooms. While the conversion from a dwellinghouse into a flat would likely result in a different pattern of habitation, there is no evidence before me that there would be significant harm to the available stock of housing.
29. Although there is planning permission for the development of a 4 bedroom dwelling house at the appeal site, the appeal scheme does not result in the loss of an existing larger family home - only a potential one.
30. The site is not within a designated district area or shopping parade. I have not been referred to any LP policies which refer to a requirement for such uses to be located within one, and there is no evidence that a sequential test is needed to justify a conversion to Class E use. While there may be vacant units nearby that are better suited for this use, the addition of such a unit on this site is not restricted by any of the policies cited by the Council.
31. In conclusion, I am not persuaded that the development results in a meaningful loss of housing, given that it retains the same number of bedrooms as the original dwelling. Accordingly, the development does not have a harmful effect on the stock of housing in the borough. There is also no evidence before me to warrant justification for the need for the Class E use of the ground floor of the building. Hence, the appeal scheme still meets the housing needs of Luton, in compliance with policy LL15 of the LP, which also brings compliance with LLP1 of the LP. It also complies with the aims and objectives of the Framework.

32. The Council also cites conflict with policies LLP19, LLP25, LLP31, LLP32 of the LP. However, these are not relevant to the main issue as they instead relate to extensions to dwellings and annexes, design, sustainable transport and parking. Moreover, I have not been drawn to any wording in these policies that relate to this main issue. Accordingly, they have not been referred to in my conclusion.

Conclusion

33. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

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INSPECTOR