



Appeal Decision

Site visit made on 14 January 2025

by **K Townend BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th February 2025

Appeal Ref: APP/B0230/W/24/3349157

1A Atherstone Road, Luton LU4 8QU

- 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 M Hussain against the decision of Luton Borough Council.
- The application Ref is 24/00167/FUL.
- The development proposed is conversion and change of use of garage/workshop to Class E(g)(iii) industrial processes and alterations to fenestration after demolition of front garage.

Decision

1. The appeal is allowed, and planning permission is granted for conversion and change of use of garage/workshop to Class E(g) industrial processes and alterations to fenestration after demolition of front garage at 1A Atherstone Road, Luton LU4 8QU in accordance with the terms of the application, Ref 24/00167/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the location plan and drawing no's: mma.477 (block plan), mp.244 (floor plans as proposed), and mp.27 (elevations as proposed).
 - 3) The premises shall be used for Class E(g) use only and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)).

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. Those parts of the Framework most relevant to this appeal have not been substantially amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

3. The main issues are:
 - whether the proposal would affect the character and appearance of the area; and
 - whether the proposal would affect the living conditions of the occupants of neighbouring properties with particular regard to noise and traffic.

Reasons

Character and appearance

4. The appeal site comprises two single-storey buildings, a garage at the front of the site and a detached building behind. The proposal would include demolition of the garage at the front of the site, the provision of three parking spaces, and conversion/change of use of the rear building to an industrial use under Class E(g) of The Town and Country Planning (Use Classes) Order 1987, as amended, (the Order).
5. Policy PL14 of the Local Luton Plan 2011-2031, November 2017 (the LP) seeks to ensure that existing employment sites, whether identified in the LP or not, are retained for employment use. If I were to accept the Council's argument, that the existing use has not been lawfully proven to be an employment use, Policy LP14 would, therefore, not be relevant as the proposal would not relate to an existing employment use.
6. On the other hand, if the lawful use is an employment use, then Policy LP14 is relevant, and the proposal would be retaining the employment use of the site and whether the development is appropriate would depend on whether it would have an unacceptable effect on amenity or traffic implications, which I will return to.
7. Either way, the appeal relates to a planning application for a change of use of the building and is seeking to provide an employment use within Luton. Neither Policy LP13 nor LP14 include any policies preventing the principle of new employment uses, even in residential areas. Policy LP13 seeks to support applications which deliver sustainable economic growth, and the proposal would achieve this aim. For these reasons, I consider it is unnecessary for the appellant to have to demonstrate the lawful use of the site and I have considered the appeal as a proposal to convert an existing building to an employment use, irrespective of its existing use.
8. I acknowledge that Atherstone Road is a residential street and is part of a wider area that is predominately residential. However, the appeal site lies to the rear of the commercial properties along Dunstable Road and the site forms an area of transition between commercial and residential uses. The proposal would be read alongside the commercial use on Dunstable Road that already turns the corner into Atherstone Road.
9. Furthermore, the appeal site is similar to the other end of the block where commercial properties turn the corner from Dunstable Road onto Leicester Road. Albeit predominately residential the block between Atherstone Road and Leicester Road includes commercial uses turning into the residential streets. The proposal would, therefore, not be an incongruous form of development. The removal of the garage from the front of the site would result in a visual improvement to the street scene and the surrounding area. Moreover, bringing the building into use would also reduce the incidents of anti-social behaviour, waste, and pests.
10. For the above reasons, I find that the proposal would not have an adverse effect on the character and appearance of the area. The proposal would, therefore, comply with Policies LP1 and LP25 of the LP which, taken together, promote the delivery of growth, require development to respond to and enhance local

character, seek to ensure that development is of a high quality design, and help create quality places.

Living conditions

11. The appeal site lies behind a commercial use on Dunstable Road. There are residential properties on Atherstone Road, opposite the site which have the front elevations facing towards the appeal site. The site is also to the side of the rear gardens of residential properties on Weatherby Road. These houses, especially numbers 54, 52 and 50 Weatherby Road have their rear elevations and gardens sharing the boundary with the appeal site.
12. Even though there is no specific end user, or detail of the intended industrial use, and albeit that any use of this site would increase noise and disturbance for the occupiers of the residential properties around it, this would not automatically mean that there is unacceptable harm.
13. Class E(g)(iii) is defined as “any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.” Class E(g)(iii) uses, and the other uses within Class E(g); an office, or research and development of products or processes, would be uses that would be suitable within residential areas. Class E(g)(iii) is not any industrial use, but any industrial use that is suitable in a residential area.
14. The wording of the Order ensures that uses under Class E(g) would protect the living conditions of residential areas. Uses under that part of the Order must be uses that are appropriate within residential areas without unacceptable detriment to living conditions. Consequently, albeit an industrial use, the use would have to be one which would not result in unacceptable harm to the living conditions of the occupiers of neighbouring residential properties to be considered a Class E(g) use.
15. From my site visit the houses opposite and those next to the site, on Weatherby Road, have hard surfaced frontages which would provide some off-street parking. However, I was also fully cognisant that on-street parking along Atherstone Road was heavily used and residents may not park on their frontages. Parking demand and pressure is high in the immediate area.
16. The proposal would include three off-street parking spaces to the front of the site. This would exceed the amount of parking required by the Council’s adopted standards for the size of the development and the use proposed. Any deliveries could be carried out from the street which would be similar to the commercial use on Dunstable Road, which has a vehicle access next to the appeal site, and would only result in short term disruption to vehicle movements.
17. The provision of three parking spaces on the frontage would remove any ability for parking on the street immediately outside the appeal site. However, the spaces on site would provide parking for the proposed use and, therefore, not increase parking pressure in the immediate area.
18. For the above reasons, subject to restricting the use to a Class E(g) use, I find that the proposal would not unacceptably adversely affect the living conditions of the occupants of neighbouring properties with particular regard to noise and traffic. It

would, therefore, comply with the requirements of Policies LP1 and LP25 in delivering growth and sustainable development.

19. The Council Officer report also refers to Policy LP38 of the LP although this policy was not referred to in the reasons for refusal. For the same reasons as above, I find that the development would not result in significantly adverse effects on neighbouring development, adjoining land, or the wider environment, with regard to air, land, or water and, therefore, the development complies with Policy LP38.

Conditions

20. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. In order to ensure that the living conditions of the occupiers of the residential properties around the site are not unacceptably adversely affected it is also necessary and appropriate to include a condition restricting the use of the proposal to a use falling within Class E(g) of the Order. However, I have not restricted the use to Class E(g)(iii) as any of the Class E(g) uses would be appropriate in a residential area.

Conclusion

21. For the reasons given above the appeal should be allowed.

K Townsend

INSPECTOR