



Appeal Decision

Site visit made on 12 February 2025

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2025

Appeal Ref: APP/B0230/W/24/3350727

324 Hitchin Road, Luton, LU2 7SR

- 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 Salvatore Giannone of GI Property Management Limited against the decision of Luton Borough Council.
 - The application Ref is 24/00569/FUL.
 - The development proposed is demolition of existing single-storey light industrial units and construction of new light industrial units with internal mezzanine levels with associated car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether sufficient information has been provided to allow an informed assessment of the impact of the proposed development in terms of contaminated land, trees and noise generation; and,
 - The effect of the proposed development on the character and appearance of the area and the effect on the living conditions of the occupiers of nos 25-37 (odd numbers only) Turners Road South with regard to outlook.

Reasons

Whether sufficient information

3. The site is in light industrial use and in the past has been used for car repairs and spraying. These uses are likely to have resulted in contamination of the land at the site. The site is currently laid mostly to hardstanding, but there is no evidence of how long this has been the case. The proposed development is likely to involve removal of at least some of the hardstanding to create foundations for the new units, but the full extent of works involving ground disturbance is not clear. Given these considerations, it is not clear to what extent contaminated land may be present nor what effect the development would have on it including any risk to future or neighbouring land users.
4. The submitted arboricultural survey identifies at least 4 trees on the site boundary. numbered 5-8 in the survey, that have root protection areas and canopies overlapping with the site of the proposed new units. No information is provided with the survey to show how these trees would be protected during construction, including what measures would be used to prevent root damage from any

excavations. While not subject to Tree Preservation Orders, these trees make a significant contribution to the character of the area. The trees on the shared boundary with the houses on Turners Road South also provide considerable screening for the occupiers of those houses. Given this, it is important that they be preserved as part of any development on the site.

5. In the absence of clear evidence that this would be the case, it is not possible to say that no harm would result from the appeal proposal with regard to these issues. I have considered whether these issues could be overcome through conditions. However, the lack of clear evidence means that there is no certainty that such conditions would be reasonable, precise or enforceable.
6. No noise assessment has been carried out in relation to the proposed use. However, light industrial uses such as those proposed are typically compatible with operating near to sensitive receptors like residential properties. The units would benefit from improved insulation over the existing uses, and hours of operation could be controlled. Additionally, a full acoustic assessment could be required for any plant or other machinery to be installed at the site. These matters could have been controlled by condition, had I otherwise been minded to allow the appeal.
7. On balance, therefore, there is insufficient information to show that the proposed development would not cause harm in relation to contaminated land or through the loss of trees. It therefore conflicts with policies LLP1 and LLP38 of the Luton Local Plan. These policies require, amongst other things, that development contribute to enhancing a sense of place and demonstrate whether the scheme will result in any significantly adverse effects with regard to pollution and contamination.

Character, appearance and living conditions

8. The appeal site is well contained by surrounding development, which includes a mixture of single and two-storey buildings in a variety of uses. These include commercial uses facing onto Hitchin Road, and houses on Turners Road South. The existing units are single storey structures which are not visible outside their immediate surroundings.
9. The proposed units would be significantly taller with internal mezzanine levels. They would be oriented at right angles to the present units, backing onto the industrial buildings on the Greenwood Court industrial estate. However, the screening effect of the neighbouring commercial and industrial buildings would mean that there would be little visual impact beyond that immediate surrounding.
10. The proposed units would be more prominent when seen from the houses on Turners Road South, several of which back onto the site. There would be screening from the existing trees along the common boundary if retained, although as noted above it is not clear that this would be the case. I have accordingly assessed this proposal on the basis that the trees would be lost as a result of the development.
11. The separation distance between the proposed unit and the neighbouring houses would be like that between the units on the Greenwood Court industrial estate and the houses backing onto them, with little or no screening from trees along that shared boundary. However, it is not clear that the proposed units would be of a similar height to those in Greenwood Court, given the proposed mezzanine floors. In addition, the units would be built close to the shared boundary, where the

existing units on the appeal site are set away from the boundary with the houses on Turners Road South. They would therefore be more prominent in outlook from the houses than the existing buildings on site.

12. The units would fall under a 25 degree line taken from the nearest windows of the neighbouring houses. However, they would present an uninterrupted elevation of significantly greater height than the existing boundary directly to the rear of the houses. In the absence of certainty about the retention of the trees this would result in the units being visually intrusive, and harmful both to the character and appearance of the area as seen from these properties and their outlook due to their height and proximity.
13. Given the uncertainty about the future of the intervening trees the appeal proposal therefore conflicts with policies LLP1, LLP14 and LLP25 of the Luton Local Plan. Taken together these policies require that redevelopment in employment areas not have unacceptable amenity implications and that all development enhance the distinctiveness and character of the area.
14. The council also referenced Local Plan policy LLP31 in its decision notice. However, this policy relates to sustainable transport and no specific conflict has been identified with its aims. Accordingly, it is not determinative in my assessment of this appeal.

Planning balance and conclusion

15. The redevelopment of existing employment land for continued use is supported in both local and national policy. The proposed development would provide improved accommodation for users of the units. These factors weigh in favour of the proposed development.
16. However, given the uncertainty regarding possible land contamination and the retention of the trees, and the associated effects on neighbouring residents, the harm arising from the appeal proposal would outweigh any benefits that would result from it.
17. There are therefore no material considerations to indicate that a decision should be made other than in accordance with the development plan. Consequently, the appeal is dismissed.

M Chalk

INSPECTOR