



Appeal Decision

Site visit made on 18 February 2025

by **D J Barnes MBA BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th March 2025

Appeal Ref: APP/B0230/W/24/3351921

83 Windsor Walk, Luton LU1 5DR

- 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 Ayub against the decision of Luton Borough Council.
 - The application Ref is 24/00003/FUL.
 - The development proposed is the erection of a second floor extension to create a one bed flat with balcony, wall and piers.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The revised National Planning Policy Framework was published in December 2024 but does not raise any new matters which affect the assessment of this appeal scheme.

Main Issues

3. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the host property and the surrounding area and (b) the living conditions of the occupiers of neighbouring properties.

Reasons

Character and Appearance

4. The appeal property is situated in a mixed use area comprising apartment buildings and other properties in commercial use. There is a wide variation in the designs and heights of the buildings within the surrounding area with no clear coherent character and appearance. Adjacent to the property on the same side of Windsor Walk the buildings are 3-storeys in height. On the opposite side of the road there is a different character because the buildings are of a lower height and are primarily in commercial use.
5. A previous scheme for a similar form of development was refused by the council but its detailed planning circumstances have not been provided. Accordingly, this appeal scheme has been assessed on its own circumstances.
6. The appeal property is a 2-storey building currently sub-divided horizontally into 2 flats and it is proposed to extend the property upwards by the addition of a second

floor to create a third flat. The proposed development would provide a 1 bedroom flat suitable for occupancy by 2 people. Although such a flat would not provide family accommodation of the type identified as being required by the Luton Strategic Housing Market Area, as identified in the *Strategic Housing Market Assessment*, Policy LLP15 of the Luton Local Plan (LP) does not preclude flatted schemes from coming forward.

7. The resulting property would reflect the heights and massing of the neighbouring 3-storey buildings and, as such, it would fit into the streetscene along this side of Windsor Walk rather than be an incongruous or conspicuous form of development. The design of the proposed development would reflect the current contribution of the existing property to the streetscene along this side of Windsor Walk, including the pitched roof and fenestration.
8. At the rear, there is a 2-storey projection from the property which is joined to a similar addition extending from the rear of 83 Wellington Street. The council claims that the resulting building would dominate the appearance of this 2-storey addition. Although the resulting property would be taller than this addition, it would not cause such harm to the character and appearance of the surrounding area so as to justify this appeal failing. The 2-storey projection would be seen as an outrigger extending from the resulting 3-storey property. Such a difference in height is not an unusual or uncommon occurrence, especially where there is a wide variety in the design, character and appearance of buildings within the surrounding area.
9. On this main issue, it is concluded that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would not conflict with LP Policy LLP25. Amongst other matters, this policy seeks to optimise higher densities and secure a high quality of design, including developments responding positively to the character of an area by reason of streetscene, scale and heights. LP Policy LLP1 is not considered to be of direct relevance to the appeal scheme because it concerns a generic presumption in favour of sustainable development.

Living Conditions

10. At the rear of the property are windows of habitable rooms from flats within the rear elevations of 83 Wellington Street and 81/83A Windsor Walk which is a “u” shaped residential development with a rear courtyard. The proposed development would be seen in the outlook from these windows. Although the council claims that there would be an outlook from the rear windows of 85 Wellington Street, this outlook is significantly limited by the rear 2-storey projection.
11. Although indicated on the drawings to serve a bathroom, the property’s existing first floor window serves a bedroom. There are obscurely glazed windows within the side elevation of the 2-storey addition serving the first floor flat’s kitchen and a bathroom. As can be expected within an urban area, there is already some intervisibility in the outlook to and from the property’s first floor rear window and the openings of the neighbouring properties. There is also a partial overlooking of the courtyard associated with Nos. 81/83A. The existing degree of overlooking does already compromise the privacy of the occupiers of these neighbouring properties.
12. The erection of the proposed extension would, however, significantly increase both the perception of overlooking and actual overlooking and the associated loss of privacy for the occupiers of neighbouring properties, specifically the rear windows

of Nos. 81/83A, 83 Wellington Street and the courtyard. This unacceptable harm arises because of the proposed balcony which would afford greater opportunities for overlooking when compared to the existing rear first floor bedroom window. The drawing indicate that this balcony would be accessible via a door from the proposed flat.

13. Accordingly, it is concluded that the proposed development would cause unacceptable harm to the living conditions of the occupiers of neighbouring properties by reason of overlooking and loss of privacy and, as such, it would conflict with LP Policy LLP25. This policy seeks to deliver new housing but also minimise overlooking and ensure privacy is maintained. In terms of optimising higher density of development, the policy also refers to avoiding giving rise to adverse amenity.

Conclusion

14. Although the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area, this matter is demonstrably outweighed by the significant harm which would be caused to the living conditions of the occupiers of neighbouring properties. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR