



Appeal Decision

Site visit made on 6 May 2025

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

Appeal Ref: APP/B0230/W/25/3359823 405B Dunstable Road, Luton LU4 8DA

- 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 Khalid Mahmood against the decision of Luton Borough Council.
 - The application Ref is 24/01203/FUL.
 - The development proposed is Erection of single storey temporary structure of front/side (both sides) extension and front and site boundary walls.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council amended the description of development from the application form. Whilst it is not clear that this was agreed by the appellant, it better reflects the nature of the proposal and I have proceeded on that basis, removing 'retrospective' as this is not an act of development.
3. The development has been completed. There are some minor discrepancies with what has been built and the submitted plans. However, I have determined the appeal on the basis of the plans before me.
4. The outer walls of the development contain imagery of food. I have determined that these meet the definition of 'advertisements' as defined in section 336(1) of the Town and Country Planning Act 1990 (as amended). Therefore, these are subject to a separate regime for advertisement control and I have not considered these elements any further as part of my decision.

Main Issue

5. The main issue in determining this appeal is the effect of the development on the setting of the designated park and the character and appearance of the area.

Reasons

6. The appeal site is located on Dunstable Road in Luton, to the west of a pedestrian entrance to Kingsway Recreation Ground, a designated Neighbourhood Park according to the Local Luton Plan 2011-2031 (2017) (Local Plan). On the eastern side of this centrally located park entrance, is an established tree set amongst open grassland. This space is defined by a low, curved wall separating the park from the adjacent footpaths fronting the highway and leading into the park.

7. Comprising a former public convenience building, the appeal site is now in use as an eatery having gained planning permission in 2020¹ to operate as a café. Prior to the erection of the extensions that are subject of this appeal, the evidence shows that the building comprised a modest, single storey hipped roof structure, set back from the highway with an area of hardstanding and grassland to its foreground. It was also bound by a low brick wall that mirrored the curved wall on the other side of the park entrance. The site lies within an area of mixed use, including an adjacent bowling green, commercial uses and residential dwellings opposite.
8. The appeal proposal has extended the built form to the back edge of the footpaths adjacent to both Dunstable Road and the park. The entire appeal site has now been built over with flat roof extensions that project to both sides and the frontage, set behind a high brick wall and railings. Due to the sheer extent of the development compared to the original building, the extensions harmfully engulf both the original building and the appeal site. Furthermore, the boxy design fails to adequately respond to the design of the original building or the wider street scene in terms of its form, scale and detailing, resulting a development that is unsympathetic and obtrusive to its surroundings.
9. Moreover, the development results in the loss of what was an attractive, open setting to the northern entrance of the park, contrasting starkly with the enclosed, intensively developed appeal site, as it now presents. The curved wall that once defined the edge of the grounds with the appeal site is gone. The removal of this curved wall, which matched the wall opposite, has resulted in a loss of symmetry at this prominent entrance and has harmfully undermined the sense of distinctiveness and place that the area previously enjoyed. This, coupled with the loss of open space in front of the appeal building, has significantly eroded the sense of spaciousness, the attractive setting and the entrance to the park.
10. The result is a visually incoherent development that significantly and demonstrably harms the open setting of the designated park and the character and appearance of the area. This directly conflicts with Policies LLP1 and LLP25 of the Local Plan which, amongst other things, require developments to enhance the sense of place and distinctiveness, respond positively to and preserve local character, which this development fails to achieve. The appeal proposal also goes against the aims of the National Planning Policy Framework (the Framework), Paragraph 135 in particular, which amongst other things expects high quality design that is visually attractive.

Other Matters

11. The Council cite conflict with Policies LLP21, LLP24 and LLP27 of the Local Plan. These policies relate to the Centre Hierarchy of main town uses and their distribution at an appropriate scale; community facilities including their expansions; and development on open space which is restricted to ancillary, complementary, and limited in scale, securing the efficient and effective use of the existing green space.
12. Whilst I have already concluded that the scale of the development would visually overwhelm the site, it has not been clearly articulated by the Council that the appeal scheme conflicts with these policy expectations which relate to functional

¹ Planning Reference 20/01413/FUL – Conversion and change of use from public convenience to café (Class E).

matters rather than visual impacts. For example, no details are before me of the extent of the approved café use, how the appeal proposals would conflict with the policy to protect open space or how this goes beyond an ancillary or complementary use. Likewise, no evidence is presented in respect of how the appeals effects the Centre Hierarchy. In the absence of substantive evidence to demonstrate the harm, I cannot find that the appeal scheme affects the functionality of the appeal site as the Council assert. Therefore, I have not identified conflict in respect of these matters.

13. Additionally, the Council assert that the development runs counter to the aims of Policies LLP31 and LLP32 of the Local Plan. Amongst other things, these policies plan for an integrated, sustainable transport system for the town, aim to reduce congestion, minimise the need to travel and provide a maximum standard of parking to promote modal shift, yet require provision of sufficient parking to help ensure adverse effects on highway safety are avoided. Whilst the Council's officer report refers to an over intensification of the size and scale of the development having a negative effect on the parking of the area, no details are before me to substantiate this assertion. Therefore, it follows that I cannot identify harm in respect of these policies.
14. Notwithstanding the above, I have found that the effects of the development would cause significant, demonstrable harm to the character and appearance of the area and the setting of the designated park. Being mindful that the extensions are described as 'temporary' I have considered whether this should reduce the extent of the harm I have identified. However, I have no information before me to indicate how long this 'temporary' development is sought for, or indeed what would replace it. Neither has a condition been suggested by the appellant, to indicate the time period requested. Consequently, the development could be in place for a substantial period of time. Therefore, I give the 'temporary' element limited weight.
15. The development has undoubtedly brought about social and economic benefits by bringing back into active use a building that has previously stood vacant. This attracts positive weight. However, its extent would be moderate and does not outweigh the substantial harm that has arisen from the significant adverse effects on the character and appearance of the area and the setting of the park.

Conclusion

16. For the reasons set out above, the proposal would conflict with the development plan as a whole and there are no other considerations, including the Framework which outweigh the harm identified. Therefore, the appeal fails.

C Walker

INSPECTOR