

Appeal Decision

Site visit made on 27 October 2025

by **J Bell-Williamson MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/B0230/W/25/3371077

6A Biscot Road, Luton LU3 1AT

- 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 Rahman against the decision of Luton Borough Council.
 - The application Ref is 24/01296/FUL.
 - The development proposed is conversion and change of use of a four bedroom flat on first and second floor to a five person House in Multiple Occupation (HMO) (C4) and alterations to fenestration (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the application form refers to conversion and change of use of a three bedroom flat on the first and second floors. However, it is clear from the submitted plans and other appeal documents that the flat had four bedrooms. The amended description above reflects this.

Main Issues

3. The main issues are the effect of the proposal on the provision of family-sized housing within the borough; and whether the proposal provides adequate amenity space.

Reasons

Family-sized housing

4. The appeal property is a two storey terraced dwelling with a commercial use and studio flat on the ground floor. The upper two floors accommodated a four bedroom flat and are currently in use as a five person House in Multiple Occupation (HMO), with the living room of the flat used as an additional bedroom.
 5. Policy LLP15 of the Luton Local Plan 2011-2031 (2017) concerns housing provision and states that this should reflect the identified housing need requirements of the area. In addition, residential development on unallocated sites will be permitted where it will not lead to the loss of a use for which there is a recognised local need.
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6. I have had regard to the appellant's contention that the use of the upper floors as an HMO does not conflict with Policy LLP15 because this part of the appeal property would remain in residential use, rather than be converted to a different use. However, a major purpose of the policy, amplified by its supporting text, is to ensure that housing proposals meet identified local need and, related to this, do not result in the loss of existing uses for which there is a need in accordance with relevant evidence. It is, therefore, appropriate to consider whether this is the case with regard to the appeal proposal in accordance with the main issue.
7. The appellant also asserts that the change of use of an existing dwelling to an HMO of the size in this case would not normally require permission and that this is only required because of the ground floor commercial use. As a matter of fact, however, an application and appeal have been made for retrospective planning permission, which I am required to determine on the basis of the submitted evidence.
8. The Council states that there is an identified need of 2,590 four or more bedroom dwellings within the borough, but that historic delivery of this size of dwelling between 2011 to 2019 is 402 units¹. While this evidence is from 2019 and therefore is not up-to-date, it does nonetheless point to the fact that provision of this type of accommodation has not historically met the identified level of need. I note that the same document states that development activity continues to be concentrated on the provision of smaller properties, reflecting the delivery of flatted accommodation. I acknowledge the Council's assertion that properties with four or more bedrooms are valuable assets in the housing stock that are not easily replaced, not least due to the significant lack of vacant land within the borough.
9. Given the extent of the difference between the need for family-sized properties and their provision in relatively recent years, there is no reasonable basis to find that there is not an outstanding, substantive need for this type of dwelling.
10. I give limited weight to the appellant's contention that the current configuration of the appeal property allows for occupation by a family, rather than individuals; or that the property could readily revert back to use as a single flat. The purpose of an HMO use is materially different to a dwelling intended for family occupation and given the current use and application for retrospective permission, there is no reasonable basis to doubt that the property would be marketed for occupation as an HMO.
11. The appellant also contends that there is a growing need for this type of HMO accommodation and for additional housing more generally, which I acknowledge. However, it is not clear from the available evidence of the extent to which this need is being met, particularly in comparison to the unmet level of need for properties with a greater number of bedrooms.
12. Therefore, taking this evidence as a whole and for the reasons given, I conclude that due to the loss of a four bedroom property the proposal has an unacceptably harmful effect on the provision of family-sized housing within the borough. Consequently, it is contrary to Policy LLP1 of the Luton Local Plan concerning sustainable development principles and to Policy LLP15, as described. Other

¹ *Strategic Housing Land Availability Assessment*, November 2019.

policies referred to are not directly relevant to this issue as they concern design, transport and parking.

Amenity space

13. Appendix 6 of the Local Plan sets out external amenity space standards. While specific standards are not included for HMOs, standards are provided for flatted development. These indicate that a minimum of 5m² of private outdoor space should be provided for 1-2 person flats and maisonettes, and an extra 1m² should be provided for each additional occupant. The submitted plans show a small area of external amenity space to the rear of the property measuring 12m², but it appears that this would be a shared space used by occupants of the ground floor flat and HMO, rather than each having its own private space.
14. I note in this regard that the appendix says that where private outdoor space is not achievable due to plot size or character this should be provided in the form of communal amenity space, grassed or hard surfaced with some landscaping. Moreover, it says that flat occupiers generally do not seek or expect the same level of garden amenity space as house dwellers. Nevertheless, an enclosed area of communal amenity/play space should normally be provided where feasible.
15. Given that a communal amenity area is provided for what is effectively flatted development in the absence of specific standards for HMOs, there is no direct conflict with the Local Plan. I note also that Wardown Park is easily accessible from the appeal property and provides additional open space that could be used by occupiers. Taken together, the available private and public space would be sufficient to overcome any concerns with regard to living conditions.
16. For these reasons, I conclude that the proposal would not cause unacceptable harm due to the adequacy of the amenity space for occupiers. Accordingly, there is no conflict with the following policies of the Luton Local Plan: LLP1, as described above, LLP17, which requires HMOs to have appropriate outdoor amenity space and LLP25, which requires high quality design in development.

Conclusion

17. For the reasons given in respect of the first main issue it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR