
Appeal Decision

Site visit made on 16 May 2017

by A Napier BA(Hons) MRTPI MIEMA CEnv

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 June 2017

Appeal Ref: APP/X2410/W/17/3169980

6 Pulteney Avenue, Loughborough LE11 2NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Patel against the decision of Charnwood Borough Council.
 - The application Ref P/16/2576/2, dated 17 November 2016, was refused by notice dated 24 January 2017.
 - The development proposed is change of use to one bed studio flat from existing detached workshop/office at the rear of property.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council refused the planning application for three reasons, the third of which concerned its potential impact on highway safety. As part of the appeal submissions, the Council accepts that this matter could be adequately addressed by a suitable condition. As such, whilst it will be necessary for me to consider this issue, it no longer represents a matter in contention between the main parties. Consequently, the main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the area; and
 - Whether or not the proposal would achieve acceptable living conditions for its potential future occupiers and neighbouring occupiers, with particular regard to privacy, access, outlook, noise and disturbance.

Reasons

Character and appearance

3. The appeal site is located within an established housing estate, in a predominantly residential area. The estate has a regular pattern of development which, in the vicinity of the appeal site, largely comprises pairs of semi-detached houses, separated from the highway by front gardens and driveways, with generous rear gardens. There is a high degree of uniformity in the design and appearance of the buildings and, although the side-to-side separation distances are limited, the overall layout of built form and the spaces around the buildings results in the area having a generally spacious character.
 4. Whilst there is some variation in the form of the buildings and their use of external materials, No 6 is of a similar scale and overall external appearance to
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the neighbouring properties. The appeal submissions indicate that permission was granted for No 6 to be extended and converted to two flats in 2007. Also permitted at that time is a brick and tile outbuilding, which is the subject of this appeal. The appeal building is located within the generous rear garden, some distance from the rear elevation of the main building. Although other gardens in the area include a variety of outbuildings and structures, such as sheds and greenhouses, the appeal building appears to be notably more substantial in its scale and use of materials than others visible at the time of my visit. Whilst not excessively large for the space available, it is a relatively sizeable structure within this context.

5. No alterations are proposed to the exterior of the building and, given the context of the site, I consider that the proposal would not be harmful to the appearance of the wider area. However, even if it were to be in single occupancy, in comparison to its incidental use in connection with the flats, its proposed separate residential use would be very likely to be materially more intensive, with significantly higher levels of sustained activity likely to take place for longer periods of time and on every day of the week. Furthermore, the type of activity likely to be associated with a residential use of the building would be markedly different to that which could be reasonably expected to occur with its incidental use as a workshop or office. It would also generate a demand for independent access to and from the building, as well as a much greater likelihood of the regular use of the associated amenity space.
6. The building is located towards the end of the rear garden, immediately adjacent to the rear gardens of several neighbouring properties, where intensive activity can be generally expected to occur less frequently. This part of the site and the surrounding area has been described by the Council as relatively tranquil and this accords with my observations during my visit to the area. In this context, I consider that the material change to the type and intensity of the use of the building as proposed would significantly detract from the garden character of its immediate setting and would materially diminish the overall character of the wider area.
7. The Council has also expressed reservations that, should the appeal proposal be allowed, it would be difficult for the local planning authority to resist other similar schemes. Given the context of the site, I consider that there is a reasonable prospect of similar development being repeated nearby and the cumulative effect of this would have the real potential to considerably alter the existing character of the area. However, even without this potential for further harm, I have found above that the proposal would be harmful.
8. Accordingly, I conclude that the proposal would be unacceptably harmful to the character of the area. It would not be in accordance with the *Charnwood Local Plan Core Strategy 2015* (CS) Policy CS/2, the *Borough of Charnwood Local Plan 2004* (LP) Policy EV/1, where they seek to protect local character. It would also not meet the similar aims of the Council's *Supplementary Planning Guidance on Backland and Tandem Development* (SPG), or those of paragraph 17 of the National Planning Policy Framework (the Framework), to take account of the different roles and character of different areas.

Living conditions

9. The appeal building is sited in tandem with the main building at No 6. Parking would be provided within the frontage of the larger site, between the main

building and the highway, with pedestrian access to the proposed dwelling along the side path, between the flats at No 6 and the neighbouring property. Whilst reference is made within the submissions to a fence separating the outbuilding from the remainder of the garden, this had been removed at the time of my visit, although some posts remained in place.

10. The existing side path immediately adjacent to the main building is relatively narrow. Precise details of the proposed access arrangements are limited and the whole area around the appeal building and to the rear of the main building is shown as shared amenity space. The windows of the proposed living accommodation would face the shared side boundary. As a result, the proposal would not result in unacceptable overlooking between the flats at No 6 and the interior of the proposed dwelling. Nonetheless, having regard to the relationship between the two buildings, I am not satisfied that the proposal would provide sufficiently private areas of amenity space for the respective occupiers of the proposed and existing dwellings, without some form of boundary separation within the existing rear garden.
11. Details of boundary arrangements could potentially be controlled by condition. However, given the layout of the site and the respective relationship between the two buildings, including the fenestration details, it seems to me to be reasonably likely that such boundary treatments would result in a long narrow path along the side boundary of the rear garden area, to provide access to the appeal dwelling. This would result in a high degree of enclosure for this path and, together with the distance of the appeal building from the highway, I consider that this arrangement would represent an awkward and unduly inconvenient access for the potential future occupiers of the dwelling, which would materially diminish their potential living conditions.
12. In addition, for the reasons given above, notwithstanding the relatively modest size of the appeal building, I consider that its use as a separate dwelling would be very likely to result in a material increase in noise and disturbance, even if the occupation of the dwelling were limited to one person. As a result, given the relationship of the building to nearby properties, I consider that the change of use proposed would adversely affect the peaceful enjoyment of neighbouring gardens and be materially harmful to the living conditions of nearby occupiers.
13. Due to the relative size of the rear garden area as a whole, the scale of the appeal building and the separation distance between it and the flats at No 6, the proposal would not be unacceptably cramped and a reasonable amount of amenity space could be provided for the existing flats and the proposed dwelling. I have also had regard to the Council's guidance in relation to outlook. Whilst I see no reason to challenge this guidance, as a matter of principle, in this particular instance the dwelling would face a boundary fence and neighbouring rear gardens. Although the separation distance would be below that normally considered appropriate, taking the particular context of the appeal building into account, I am not persuaded that the outlook available would be unacceptable. Nonetheless, none of these matters, either individually or cumulatively, would address the harm identified above.
14. Consequently, overall, I conclude that the proposal would not provide acceptable living conditions for its own potential future occupiers or neighbouring occupiers. It would be in conflict with CS Policy CS/2 and LP Policy EV/1, where they seek to ensure that new development protects local

residential amenities. In this respect, it would not be in accordance with the advice in the Council's SPG or its *Leading in Design Supplementary Planning Document*, and would not meet the similar aims of paragraph 17 of the Framework, to achieve a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

15. The proposal would result in the provision of one new dwelling, within an established settlement and within reach of a range of local services and facilities. It would make a contribution towards meeting local housing need and would have some economic benefits. Overall, given the scale of the development, these benefits would be likely to be modest. Nonetheless, taking into account the general encouragement within the Framework for such development, I give them moderate weight. Furthermore, from the evidence before me, I am satisfied that the provision of appropriate parking arrangements, which would not result in harm to highway safety or inconvenience to other road users, could be adequately controlled by condition.
16. The three roles of sustainable development are mutually dependent. Paragraphs 6-9 of the Framework indicate that 'sustainability' should not be interpreted narrowly. Elements of sustainable development cannot be undertaken in isolation but should be sought jointly and simultaneously. Sustainable development also includes 'seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life'.
17. For the reasons given, I find that the harm identified to the character of the area and living conditions would significantly outweigh the benefits of the proposal. As a result, the scheme would not represent sustainable development and would not be in accordance with the development plan as a whole.

Conclusion

18. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A Napier

INSPECTOR