
Appeal Decision

Site visit made on 6 August 2019

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 9th August 2019

Appeal Ref: APP/W2465/W/19/3229752

4 Gervas Road, Leicester, LE5 2EH

- 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 Ashish Sisodia against the decision of Leicester City Council.
 - The application Ref 20181655, dated 19 July 2018, was refused by notice dated 9 May 2019.
 - The development proposed is demolition of buildings at side; construction of single storey building to provide 1 self-contained flat (1 x 2 bed flat) at rear of shop with living accommodation above (Classes A1/C3).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development given above is taken from the Decision Notice rather than the planning application form. This wording reflects amendments that were made at the application stage, and the Council determined the proposal on this basis.

Main Issues

3. The main issues are the effect of the development, firstly, on the character and appearance of the area and, secondly, on the living conditions of neighbouring occupiers and future occupiers of the development with regard to outlook, privacy, and adequate outdoor amenity space.

Reasons

Character and appearance

4. The appeal site contains a shop with a flat above. There is a relatively large garden area to the rear that is mostly surrounded by other gardens serving neighbouring properties.
5. The development would introduce a single storey dwelling and new parking areas that would occupy most of the existing garden area. These would have a cramped 'backland' appearance and would be served by uncharacteristically small amenity spaces. This would contrast sharply with the surrounding properties, which are characterised by tranquil back gardens and relatively consistent plot sizes. In my view, the development would create an

unsympathetic feature that would be clearly visible from both the neighbouring gardens and from along part of Gervas Road.

6. For the above reasons, I conclude that the development would significantly harm the character and appearance of the area. It would therefore be contrary to CS Policy 03 of the Leicester Core Strategy (2014), and saved Policy HO7 of the Leicester Local Plan (2006). These policies seek to ensure, amongst other things, that new development is of high quality design and is consistent with the character of the area.

Living conditions

7. The Council's Residential Amenity Supplementary Planning Document (SPD) states that where a window to a lounge, dining room, bedroom or kitchen faces a similar window of a neighbouring property, the distance between them must not be less than 21 metres. In this case, however, the distance between the existing and proposed living room and bedroom windows would be around 15 metres. This would be significantly below the standard set out in the SPD, resulting in direct overlooking between these properties at close quarters. This would significantly harm the privacy of both occupiers.
8. With regards to the proposed amenity areas, these would be very small and would therefore have limited usability as recreational spaces. The reduction in size of the amenity area to the existing flat would be particularly harmful, as at present it benefits from a generous garden area. Whilst the proposed amenity areas would be enclosed with a 1.8 metre high fence, they would be heavily overlooked from the upper windows of Nos 2 and 4 Gervas Road. They would also be positioned next to the proposed parking area which would further reduce their privacy and sense of tranquillity. Accordingly, the proposed amenity areas would be of an unacceptably poor quality.
9. The rear wall of the proposed dwelling would run along the boundary with No 42 Ocean Road. It would project significantly above the existing fence and would dominate views from the rear garden of that property. In my view, it would be an imposing presence along the boundary that would create a harmful overbearing effect. As No 42 is located to the north, it would also overshadow the garden area, particularly during the winter months.
10. Separately, whilst the proposed dwelling would have rear facing windows in close proximity to the boundary fence, these would serve a corridor and a kitchen area only. In this regard, the main windows to the living room/kitchen and the bedrooms would have an adequate level of outlook. I am also not persuaded that the domestic activity and comings and goings associated with one additional dwelling would cause any significant disturbance to neighbouring occupiers. However, that does not alter my other concerns regarding the development, as set out above.
11. For the above reasons, I conclude that the development would significantly harm the living conditions of neighbouring occupiers, and future occupiers of the proposed dwelling, with regard to outlook, privacy, and adequate outdoor amenity space. It would therefore be contrary to saved Policy PS10 of the Leicester Local Plan (2006) and guidance contained in the Residential Amenity SPD (2008). This policy and guidance seek to ensure, amongst other things, that residential amenity is protected.

Conclusion

12. For the reasons set out above, I conclude that the development would significantly harm the character and appearance of the area, and the living conditions of both neighbouring occupiers and future occupiers of the development. Whilst it would provide new housing in a relatively accessible location, that does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR