



Appeal Decision

Site visit made on 18 June 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

Appeal Ref: APP/W2465/W/19/3225845
49 Stoughton Road, Leicester LE2 2EF

- 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 J Rai against the decision of Leicester City Council.
 - The application Ref 20181171 dated 21 May 2018 was refused by notice dated 28 February 2019.
 - The development proposed is a new build dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised National Planning Policy Framework (the Framework) was published in February 2019 after the issue of the Council's decision. However, as any policies that are material to this decision have not fundamentally changed in the Framework, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.

Main Issues

3. The main issues are the effect of the appeal proposal on (i) the character and appearance of the area (ii) the impact on the living conditions of the occupiers of 51 Stoughton Road with regard to outlook and (iii) the impact on the living conditions of future occupiers of the appeal dwelling with regard to outlook in relation to existing trees.

Reasons

Character and appearance

4. The appeal site is currently part of the garden land of 49 Stoughton Road which is on the corner of Stoughton Road and Guildford Road. No 49 has an access and fronts onto Guildford Road with a side boundary to the north with Stoughton Road. The appeal site is outside the Stoneygate Conservation Area (the CA), although the houses on the opposite side of the road which are largely 3 storey dwellings are within the CA as Stoughton Road marks the boundary.
5. The CA appraisal refers to the large number of treelined streets and trees in private gardens being important characteristics of the CA. The appeal site and its surrounding dwellings also have a leafy character due to the presence of a

- number of mature trees both along road boundaries and within private gardens. There is a large group of beech trees on the northern boundary of No 49 that would remain within the garden of No 49 and there are two sycamore trees on the same boundary further east that would be within the appeal site. The layout plan shows that the two sycamore trees referred to as T2 and T3 would be removed as part of the appeal proposal. There are also trees within the existing garden that were planted in November 2018 following the removal of five trees that had been the subject of a Tree Preservation Order (TPO).
6. The Council refers to pressure on future occupiers to cut back and prune trees along the northern boundary harming the leafy character of the appeal site in close proximity to the CA boundary. However, I do accept the appellant's argument that I have limited evidence to show that would be the case. Any application to carry out works to the trees would be subject to the Council making an appropriate assessment with regard to any application for consent. It would also appear that not all of the replacement trees fall within the appeal site boundary and I have limited information about the extent of root protection areas.
 7. The appeal dwelling would be located in between No 49 and No 51 which are both two storey detached dwellings with hipped roofs set in spacious plots. The rear garden of the appeal dwelling would back onto the side of 1 Dovedale Road. No 51 has large bay windows at ground level and smaller windows at first floor level and a simple roof style. With regard to its position, it would be roughly in line with No 51 which also fronts onto Stoughton Road but it would nevertheless appear cramped between No 51 and No 49.
 8. The proposal would create a new access off Stoughton Road and would provide living accommodation on three floors. The combination of the various features particularly above ground floor level does result in a disproportionate top heavy effect with dormer elements on the front, rear and one side elevation and a flat roof element at the rear. The sizes of the dormer windows would be similar to other window sizes on the dwelling giving the appearance of a three storey dwelling. Whilst examples of buildings with external cladding have been provided by the appellant, the combination of the various features of the appeal dwelling would not reflect the design or style of surrounding dwellings and would not therefore make a positive contribution to the adjacent CA.
 9. The appeal proposal would therefore harm the character and appearance of the area. It would therefore be contrary to Policies CS03 and CS18 of the Leicester City Core Strategy Adopted June 2014 (the Core Strategy) which, amongst other things, states that development should contribute positively to an area's character and appearance and will protect and enhance the character and setting of designated heritage assets. Policy PS10 of the City of Leicester Local Plan 1996-2016 Adopted January 2016 (the Local Plan) is less relevant as it relates to the amenity of existing or proposed residents. It would also be contrary to Paragraph 130 of the Framework which refers to design improving the quality of the area.

Living conditions of occupiers of 51 Stoughton Road

10. The eastern side boundary of the appeal dwelling would be in close proximity to 51 Stoughton Road which is a large detached dwelling that fronts onto Stoughton Road. It has three windows at ground level on its side elevation.

One window is a porthole type window at a higher level and the garage window has obscure glazing. However, the third window is a habitable room.

11. The window currently looks out to the fence along the common boundary with No 49 and the garden of No 49 is currently to the other side. Although the appeal proposal would have no windows on this side elevation, the view from No 51 would be of a blank gable wall and an L shaped dormer at the rear with a gap of around 4 metres between the appeal building and No 51. Whilst the Council has not referred to significant harm arising from loss of daylight or privacy, that in itself does not mean that a proposal cannot result in a sense of enclosure.
12. I do consider that a combination of the design and bulk of the side elevation of the appeal proposal together with its proximity to No 51 would be harmful to the living conditions of the occupiers of No 51 due to being overbearing.
13. The appeal proposal would therefore be contrary to Policy PS10 of the Local Plan which, amongst other things, refers to the visual quality being a factor when considering amenity of existing residents and Policy CS03 of the Core Strategy which, amongst other things, refers to development responding positively to its surroundings. It would also be contrary to paragraph 127 (f) of the Framework which refers to a high standard of amenity for existing users.

Living conditions of future occupiers

14. The Council considers that the combination of the front elevation of the appeal dwelling being north facing and trees to the front would harm the living conditions of future occupiers with regard to outlook.
15. The layout plan which is also called the Arboricultural Survey & Constraints Plan shows the position of trees and hedges within the wider site but it does not show the position of the replacement trees or their root protection areas in relation to the appeal site. The replacement trees had not been planted at the time of the appellant's arboricultural survey in October 2017.
16. Although there is limited information with regard to the location of the replacement trees in relation to the appeal site, the original tree marked as T5 on the TPO plan would appear to be positioned to the front of the appeal dwelling and had a spread of 4 metres. The original tree marked as T4 on the TPO plan was slightly to the side of the appeal dwelling and the other TPO trees appeared to be in what would remain as the garden of No 49. On the information before me, I am unable to assess whether or not replacement trees T4, T3, T2 or T1 would impact upon the living conditions of future occupiers with regard to outlook.
17. However, a replacement tree for T5 would appear to be in close proximity of the front of the appeal dwelling. I therefore conclude that there would be harm to the living conditions of the future occupiers of the appeal dwelling due to the position of that tree with regard to outlook.
18. The appellant has referred to dwellings on Knighton Road which have trees subject to Tree Preservation Orders in their front gardens. Whilst each proposal has to be considered on its own merits, there is limited evidence before me as to whether or not the living conditions of those occupiers are affected by the proximity of trees.

19. The appeal proposal would therefore be contrary to Policy PS10 of the Local Plan which, amongst other things, refers to the visual quality being a factor when considering amenity and Policy CS03 of the Core Strategy which, amongst other things, refers to development responding positively to its surrounding. It would also be contrary to paragraph 127 (f) of the Framework which refers to a high standard of amenity for future users.

Other Matters

20. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion.

Conclusion

21. I have found that the appeal proposal would harm the character and appearance of the area and would also harm the living conditions of the occupiers of 51 Stoughton Road. I have also found harm in respect of the living conditions of the future occupiers of the appeal dwelling.
22. For all the reasons given, the appeal is dismissed.

E Griffin

INSPECTOR