



Appeal Decision

Site visit made on 13 August 2019

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2019

Appeal Ref: APP/W2465/W/19/3230283

17 Oakenshaw Close, Leicester LE4 2RJ

- 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 Khodiara against the decision of Leicester City Council.
 - The application Ref 20181740, dated 31 July 2018, was refused by notice dated 21 December 2018.
 - The development proposed is the demolition of garage, construction of 2 x 1-bedroom flats to land adjacent together with parking, amenity and bin area.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of a garage, construction of 2 x 1-bedroom flats together with parking, amenity and bin areas at 17 Oakenshaw Close, Leicester LE4 2RJ in accordance with the terms of application ref. 20181740, dated 31 July 2018, subject to the conditions listed at the end of this decision.

Main Issue(s)

2. The main issues are:
 - The effect on the character and appearance of the locality; and,
 - Whether or not the development would provide acceptable living conditions for neighbouring occupiers.

Reasons

Character and Appearance

3. The appeal site is located in a residential cul-de-sac of similar themed detached dwellings. Buildings are set within modest plots generally featuring open greened frontages with side or forecourt parking and private gardens focussed to the rear. Land levels rise and building lines show slight convergence towards the head of the cul-de-sac. Land to the rear of the appeal site is undeveloped.
4. The Council is concerned over the effect of the scale of the proposed building in relation to the plot size and proximity to its external boundaries. The building would be of similar footprint, scale and form to no.17 and other dwellings within the cul-de-sac. The building's front and rear elevations would align with no.17 and provide a similar level of side separation to that observed within the street pattern. A turning head is present beyond the north-eastern site limit that will maintain a degree of separation comparable to that on the north-western side of the road. This will avoid any significant sense of enclosure at the head of the cul-de-sac.

5. Visually, the development would be prominent on the approach along Oakenshaw Close due to the elevation of the site and its position at the end of the row of houses. However, I observed that the building would follow the general progression of increasing height along this side of the close and it would not project forward of the building line such to become overly prominent or give rise to any significant harm to the street scene.
6. The development will result in a higher building to plot ratio than is generally prevalent in the locality; however, for the reasons stated above, I do not consider this will be detrimental to the character or appearance of the locality. Similar circumstances were witnessed at 20 Oakenshaw Close on the opposite side of the road where the distances to the front and side boundaries also appeared shortened.
7. The distance from the proposed rear elevation to the rear boundary would be about 5 metres. This is comparable to the existing situation at no.17 and therefore, again, is not considered directly in conflict with the overall character of the locality.
8. The Council is concerned over the loss of landscaping to the front of no.17 to provide parking. The introduction of parking spaces here reflects several other examples of forecourt parking visible in the vicinity. Additionally, that part of the site providing parking for the proposed flats is currently hard surfaced and is therefore also consistent with the local character.
9. For the reasons above I consider the development is consistent with the aims of Policies 3 and 8 of the Leicester City Local Development Framework Core Strategy (July 2014) (LCCS) and saved Policies H07 and PS10 of the City of Leicester Local Plan 2006 (CLLP) which, amongst other things, seek to ensure that development is of high quality and contributes positively to the character and appearance of its locality.

Living Conditions

10. The Council has raised two concerns arising from the location and size of the amenity spaces associated with both the proposed and existing residences at the site, particularly with respect to securing a suitable level of privacy for users of those spaces and avoiding prejudice to the future development of the open land to the rear.
11. The first concern relates, in part, to the overlooking of the retained amenity space to the rear of no.17 from windows within the nearest side gable of the proposed building and therefore how much of that space is genuinely retained as 'private'. The overlooking windows are shown to serve the lounge areas of each flat. The location of the windows and change in level between the proposed and existing buildings would mean that an unacceptable level of overlooking of the closest parts of the retained amenity space to the side and rear of no.17 would result. However, those rooms would also be served by rear-facing windows providing outlook for future occupiers and therefore secure a suitable standard of living conditions in that respect. As a result, it would not be unreasonable to impose a requirement for fixed obscure glazing of the side windows to prevent overlooking and make the development acceptable in planning terms.
12. Secondly, in terms of overlooking of the proposed communal garden space serving the flats, I consider that any direct views arising from the windows of no.17 will be limited to an acceptable degree subject to the proposed relocation of the side window serving bedroom 3 as shown on the appeal plans. Any inter-visibility between residents within the garden areas would be typical of a residential estate situation.

13. With respect to protection of the open land to the rear, the Supplementary Planning Document – Residential Amenity (2008) (SPD) seeks a distance of 11 metres between main habitable room windows and common boundaries with undeveloped land. This is in order to facilitate 22 metre interface distances to achieve suitable levels of privacy between dwellings. The proposals will be in clear conflict with this guideline. However, it was apparent at the time of my site visit that the majority of dwellings on this side of the close would fail to meet this standard; indeed, no.17 only achieves about 5 metres to the common boundary. Given the extent of the open area to the rear and that any future layout of development on the adjacent land would need to account for the existing situation, I do not find that the proposal would significantly add further constraint or prejudice future development. On that basis I do not consider the development would undermine this policy aim.
14. The Council are satisfied that the distances to other existing properties in the locality are sufficient to avoid any significant adverse impacts on the living conditions of surrounding local residents. I saw nothing that would lead me to disagree with that finding.
15. Given the above, I conclude that the development would secure suitable standards of living conditions for existing and proposed residents as prescribed by saved Policy PS10 of the CLLP and the SPD.

Other Matters

16. In addition to the matters addressed above, third party representations are concerned with the issues of parking provision, highway safety, design and outlook.
17. The Council has assessed the level of parking against the standards set out in the CLLP and, although it was concluded that the arrangement shown on the appeal plans did not entirely meet policy requirements, it was acknowledged that minor variation to the parking layout could be made to make it acceptable in planning terms. I would agree with that view and, subject to securing a suitable arrangement agreed with the Council, consider the development will deliver parking levels in line with the required standards.
18. In suitably meeting the necessary parking provision, I conclude there is no basis to assume that the development would significantly prejudice highway safety in the locality.
19. With respect to design, the proposed development takes reference from the local scale and form of buildings in the vicinity. Whilst it does not seek to replicate the immediate house styles, it draws reference from them such that it will preserve the overall quality of the locality. Suitable external finishes can be controlled by planning condition to ensure appropriate assimilation.
20. The proposed parking arrangement is not uncommon within an urban context and would not harmfully change the living conditions of nearby occupiers in respect of outlook.

Conditions

21. I have considered the suggested conditions from the Council in accordance with the guidance contained within the Planning Practice Guidance. In addition to the standard condition limiting the lifespan of the planning permission, I have imposed conditions specifying the relevant drawings as this provides certainty.

22. In the interests of character and appearance of the area, I have imposed a condition requiring details of external materials of the building to be submitted to the Council for approval.
23. In order to achieve a suitable standard of living conditions I have imposed conditions requiring the use of obscure/opaque glazing to the windows affording sideways views between the buildings on the appeal site and a requirement to relocate the window at no.17, as shown on the approved plans. I do not consider it necessary for obscure glazing on the northern elevation due to the separation distance to the nearest residential property.
24. The Council suggests the removal of some permitted development rights from the existing dwelling at no.17 on the basis of potential loss of visual or residential amenity. However, I do not consider that this would be reasonable or necessary as a consequence of the proposed development. The remaining opportunities to exercise the freedoms to carry out small scale domestic alterations, extensions or outbuildings that would otherwise not require an application for planning permission, will be substantially limited on the reduced site and no more likely to interfere with visual or neighbours' living conditions than in the existing situation.
25. A condition is attached requiring details of drainage to be submitted to and approved by the Council. This is necessary to achieve sustainable drainage of the site. This condition is of necessity a pre-commencement one to ensure the development delivers adequate arrangements in this regard.
26. The Council has requested conditions to secure suitable parking arrangements and visibility at the access points. This is necessary to ensure the appropriate level and availability of parking and safe access and egress.
27. The Council have requested a condition to achieve a building standard currently exceeding the minimum requirements of the Building Regulations. Based on the evidence before me, there is little justification to impose a higher standard of construction or that it would be feasible to do so in this case and therefore it would not be reasonable or necessary to require it.

Conclusion

28. For the reasons set out above, I conclude that the appeal should be allowed.

R Hitchcock

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 002/170AK Rev A, 003/170AK Rev A, 004/170AK Rev A, 005/170AK Rev A, 006/170AK Rev A, 007/170AK Rev A, 008/170AK Rev A, 009/170AK Rev A, 010/170AK Rev A, 011/170AK Rev A, 012/170AK Rev A, and, 013/170AK Rev A, all dated 10-10-2018.
- 3) No development above damp proof course level shall take place on the site until details of the external brickwork and roofing materials have been submitted to and approved in writing with the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No part of the development hereby approved shall be occupied until the ground and first floor lounge windows on the south-western elevation of the building are fitted with obscure glazing and fixed closed. The windows shall be retained in that manner for the duration of the development.
- 5) No part of the development hereby approved shall be occupied until the works to relocate the window of bedroom 3 of 17 Oakenshaw Close shown on approved plans 002/170AK Rev A, 005/170AK Rev A and 006/170AK Rev A have been completed.
- 6) No development shall take place on the site until a scheme for the foul and surface water drainage of all parts of the approved development have been submitted to and approved in writing with the local planning authority. The scheme shall be fully implemented in accordance with the approved details prior to occupation of the flats.
- 7) No part of the flat development hereby approved shall be occupied until a scheme for off-street parking and access to serve the development and 17 Oakenshaw Close has been submitted to and approved in writing with the local planning authority. Prior to first occupation of the flats the scheme shall be implemented in full in accordance with the approved details and be retained for the duration of the development. No visual obstructions within any agreed visibility splays shall be erected or allowed to grow to a height exceeding 600 mm above the level of the adjacent carriageway at any time.

End of schedule.