



Appeal Decision

Site visit made on 19 November 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2019

Appeal Ref: APP/W2465/W/19/3236426

Platform Apartments, 21 Andover Street, Leicester LE2 0JA

- 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 Bass against the decision of Leicester City Council.
 - The application Ref 20190649, dated 2 April 2019, was refused by notice dated 19 July 2019.
 - The development proposed is external alterations to residential building (Class C3) and alterations to existing roof; creation of 8 no. residential units; and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal originally submitted to the Council was for the addition of two storeys to the building, with four flats to each floor. During the course of the application, a revised scheme was submitted for a single storey extension to the building, with eight flats on the same floor. It is this latter scheme that the Council determined. However, the appellant has subsequently submitted a further set of plans amending the fenestration at the proposed roof level. The Council does not oppose these plans being considered. Having regard to the *Wheatcroft*¹ principles, I am satisfied that the amendments introduced by these plans are not substantially different to the previous plans and no party would be prejudiced by my considering them as part of the appeal.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the South Highfields Conservation Area and whether the proposed flats would provide a suitable standard of accommodation for future occupants.

Reasons

Effect on Conservation Area

4. The appeal relates to a three storey residential building of eleven flats built in 2007 at the corner of Andover Street and Lincoln Street near Leicester City Centre and within the South Highfields Conservation Area (the SHCA).
5. The SHCA is characterised by a grid style layout with roads at right angles to each other, creating small, rectangular parcels of land and individual spaces

¹ *Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37*

within streets, views along which are closed by buildings on the cross streets. This is the case at the appeal site where the existing building terminates the view along Lincoln Street. The buildings are generally two to three storeys, predominantly in red brick with Welsh slates covering dual pitched roofs. The significance of the SHCA derives from the quality of the individual buildings and decorative features such as timber sash windows, stained glass and timber doors, and their cumulative effect in views along various streets.

6. Andover Street is varied in its composition, forming something of a transition between the characteristic built form of the SHCA on Lincoln Street and newer and taller development towards the city centre on Glebe Street and Conduit Street. Indeed, only the appeal building and the adjacent building at No 15 fall within the SHCA. Whilst there are different heights, building lines and detailing evident along Andover Street, there is still consistency in the use of red brick which helps to graduate the transition out of the SHCA towards Conduit Street.
7. The existing shallow pitched roof and front gable of the building would be replaced with a flat-topped mansard roof containing eight additional flats. The mansard would feature dormer windows to the front and rear and further windows to the side facing Prebend Gardens. The Council's concern relates to the additional massing of the building. I acknowledge the appellant's clarification that in terms of overall height, the building would increase by only some 320mm, though the Council points to the eaves increasing by around 600mm. Neither measure is significant in its own right, but whereas the existing building has a shallow pitched roof and limited massing above the eaves, the proposal would introduce a more prominent, box-like shape to the top of the building. With the proposed insertion of windows, the building would clearly appear as a taller, four storey structure.
8. The building itself postdates the designation of the SHCA, and so is likely to have been designed with the significance of the conservation area in mind. This is evident when viewing the building from along Lincoln Street, where its scale, eaves height, materials and roof form show consistency with the adjacent terraces and the appeal building sits relatively calmly within its surroundings.
9. The proposed mansard roof form would depart from this consistent appearance. I saw few, if any, comparable examples of mansard roofs within the immediate surroundings of the appeal site, and especially not along Lincoln Street. As such, the proposed mansard would introduce an uncharacteristic roof form which would appear discordant in terminating the view along Lincoln Street. The loss of the pitched front gable to a squared off central projection would add to the incongruous appearance of the building in its surroundings.
10. The amended plans seek to address the Council's concerns with the fenestration by matching the windows to the front, rear and side with those on the floors below in terms of size, detailing and alignment. However, due to the internal layout, two windows on the front elevation, and two on the side facing Prebend Gardens, would be 'dummy conservation style windows'. In the proposed elevation drawings, these appear as genuine windows, but it is evident from the proposed floor plans that they would be covered up internally. Therefore, despite their external detailing, these dummy windows would be identifiable by the lack of visibility through them and they would form discordant features which would detract from the authenticity and consistency of the front elevation. A similarly jarring visual effect would occur on the side

elevation where two dummy windows are proposed which would be clearly seen from the adjacent public park.

11. In terms of scale, I acknowledge that there are taller developments existing and proposed on Glebe Street; however, these lie outside of the SHCA in an area where the scale of development is generally larger and exhibits more commercial and industrial character, in contrast to the largely domestic character of the SHCA. I accept that, in views from certain points on Glebe Street which take in these larger buildings, the proposal would not appear excessive in scale or discordant in its roof form; however, this would not mitigate for its adverse effect on views within the SHCA itself.
12. For these reasons, I find that the proposal would harm the character and appearance of the SHCA. Accordingly, there would be conflict with Policy CS18 of the Leicester City Local Development Framework Core Strategy (July 2014) (the CS) which states that the Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.
13. The Council assesses the degree of harm as 'substantial' in the language of the National Planning Policy Framework (the Framework). However, the Planning Practice Guidance states that substantial harm is a high test, so it may not arise in many cases.² It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. In this case, the proposal would affect a single, recently constructed building within the conservation area. Based on my findings above, I consider the harm in this case to be less than substantial.

Standard of Accommodation

14. Policy CS3 of the CS states that new development should create buildings and spaces that are fit for purpose. Saved Policy H07 of the City of Leicester Local Plan (1996-2016) (January 2006) (the CLLP) states that new flats will be supported provided the proposal is satisfactory in respect of, amongst other things, the creation of a satisfactory living environment and the provision, where practicable, of a garden or communal open space. Saved Policy PS10 of the CLLP states that factors affecting the amenity of existing or proposed residents, including light, will be taken into account in determining applications.
15. These policies generally accord with Paragraph 127 of the Framework which states that policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
16. The Council has stated that it has not adopted the Nationally Described Space Standard³ (NDSS), but makes reference to it as an indicator of acceptable standards, and that the flats would fail to meet those standards. The Written Ministerial Statement of 25 March 2015 makes it clear that such standards can only be applied where there is a relevant current local plan policy. In this case, the policies relied on by the Council precede the NDSS and make no reference to meeting national space standards. As such, a failure to meet the NDSS is not a matter which in itself carries significant weight against the proposal.

² Paragraph: 018 Reference ID: 18a-018-20190723

³ Technical housing standards – nationally described space standard (March 2015)

17. The Council has also made it clear that it does not use the 'Standards for Self-Contained Flats' document referred to by the appellant, with correspondence from the Council's Private Sector Housing Team suggesting it is no more than a guidance document of the Planning Department dating from as far back as 2004. Accordingly, I give this document limited weight.
18. The eight flats would have studio style layouts with living, cooking, storage and sleeping areas in one room and a separate shower room. The flats would range from 23.2 square metres (sqm) to 27 sqm in total size. The plans show that the eight flats would occupy the same floorspace as four flats on the floor below, which are two bedroom units in the region of 50-60 sqm. In effect, the proposed flats would, at best, be around half the size of those below.
19. Whilst the NDSS is not adopted by the Council, it represents the latest national guidance on space standards and in that respect is a useful reference point in considering whether the proposed accommodation would be suitable in size. Indeed, I note the appellant in their covering letter with the application made a point of stating that the originally proposed flats would exceed the NDSS. The proposed plans show double beds in each unit, suggesting two person occupancy. It is evident that all of the units would fall well below the 50 sqm standard of the NDSS for such a unit, and they would even fall short of the aforementioned Council guidance document which indicated a new build two person, one bedroom flat should have a habitable floor area of 30 sqm. As I have stated, shortfalls against these standards are not in themselves justification for refusing permission; however, the proposed floorplans clearly show the consequences of such limited floorspace would be confined, cluttered layouts with very little storage or circulation space and no discernible separation between cooking, sleeping and living areas.
20. In addition, the Council raises concerns that several of the flats would receive limited light. Units 2, 3 and 4 to the front side, and Unit 1 to the rear side would have only one window serving the unit. The windows to the units on the front side would face roughly north-east, which would mean little direct sunlight would reach the units. The windows to Units 3 and 4 would also be narrower than those to Units 2 and 5 and based on the plans would appear insufficient to properly illuminate the full depth of the rooms. The layout and fenestration of these flats would create confined, poorly lit living spaces with limited outlook that would result in oppressive living conditions for prospective occupants. Whilst Units 5, 6, 7 and 8 would each have two windows, and Units 5 and 6 would be dual aspect, this would not compensate for the severely limited floorspace and resultant unacceptable living conditions for future occupants.
21. The Council raises further concerns regarding the lack of private amenity space for future occupants, referring to its Residential Amenity Supplementary Planning Document (SPD) (February 2008) which provides that a development of one bedroom flats should provide a minimum 1.5 sqm of amenity space per flat. However, Saved Policy H07 states that a garden or communal open space should be provided 'where practicable.' The appellant points to the adjacent public park, Prebend Gardens, and to the proximity of the site to the city centre and its many amenities. I acknowledge that the site is well located for reaching public amenity space. Nevertheless, private amenity spaces afford occupants valuable space for personal relaxation or functional uses such as storage or drying clothes which public spaces cannot. A unit with good levels of internal

space may mean it could accommodate such activities without a dedicated external amenity space. That is not the case here, and the absence of private amenity space in flats of such small overall floorspace would serve to further undermine the living environment for future occupants.

22. The appellant refers to a number of planning permissions granted by the Council for developments with units similar or smaller in size than those sought in this appeal. The Council points out that several of these were for student accommodation, including those close to the appeal site at 1-9 Conduit Street, at the corner of Conduit Street and Glebe Street and at 54-58 London Road, and one further afield at 96 New Walk. Based on the particulars provided, each of these proposals included additional communal facilities within the building such as common rooms and laundry rooms and/or outdoor space, none of which are proposed in the present appeal. Moreover, student accommodation, by its very nature, is not intended as permanent housing, but to be occupied primarily during term time, between which students typically return to family homes, and overall for only a few years of study. In my view, this is wholly different to private market accommodation where occupants live year round as their sole place of residence with only the facilities in the unit itself available to them. This difference is reflected in the fact that student accommodation is a *sui generis* use, not a Class C3 dwellinghouse⁴ as are sought here. As such, these examples are not directly comparable to the appeal scheme in terms of this main issue and I attach them limited weight.
23. Reference is also made to a permission for a conversion scheme at 156 Upper New Walk in a conservation area where small private flats were permitted. Whilst on its face, there are some similarities with the appeal before me, I am not provided with full particulars of the scheme beyond an extract from the Council's committee report to enable me to determine if the two situations are, in fact, comparable. In any event, I do not regard the appeal scheme as a conversion, but as new development given an additional floor would be built. The appellant was constrained only by the overall floor plate of the building, but could have laid out the floorplan in a number of different ways. Therefore, I give little weight to perceived physical constraints on development when it is clear that the main influence on the size of the units is the number of them that are proposed on a single floor.
24. The appellant also refers to the units being aimed at the lower end of the market and at younger people and includes a letter from a local estate agent as evidence to demonstrate demand for smaller units which exists. However, there is no mechanism before me which would ensure the flats were only occupied by a particular demographic. In any event, my concerns with the standard of accommodation relate to all potential occupants, regardless of age or financial means, and I am not satisfied that a planning condition or legal undertaking to restrict occupancy would overcome the harm I have identified.
25. For the reasons given, therefore, I find that the proposed flats would fail to provide a suitable standard of accommodation for future occupants, and so would conflict with Policy CS03 of the CS and saved Policies H07 and PS10 of the CLLP, in terms of being fit for purpose and providing a satisfactory living environment; with the related guidance of the Residential Amenity SPD and with the expectation of a high standard of amenity set out in the Framework.

⁴ As defined by The Town and Country Planning (Use Classes) Order 1987 (as amended)

Other Matters

26. I have had regard to other concerns raised by interested parties beyond those already addressed. However, none of these matters would alter my findings in respect of the main issues, and none would weigh in favour of the appeal, so it is not necessary for me to consider them in further detail.
27. No objection was raised by the Council in respect of neighbours' living conditions, highway safety, waste, water management or ecology. However, these are neutral matters weighing neither for nor against the proposal.

Planning Balance

28. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The benefits in this case would be the provision of eight additional flats to the City's housing stock, which would assist in meeting the Council's acknowledged shortfall in its housing supply. The parties do not elaborate on the extent of this shortfall, though I note the CS sets out a requirement for 25,600 new homes in Leicester between 2006 and 2026, an annual requirement of 1,280 homes.
29. Given the small overall number of dwellings proposed, the contribution to the overall housing targets would be modest, but would attract moderate weight in view of there being a shortfall in supply. The development would also boost the local economy by providing construction jobs and supporting building trades, albeit that this would be for a temporary period. Future occupants of the development would also support businesses and facilities within the local area. These benefits would be limited, however, in view of the scale of the proposal.
30. I consider these public benefits, taken together, would be insufficient to outweigh the less than substantial harm to the heritage significance of the SHCA, to which the Framework directs I must give great weight.
31. Although the Council acknowledges its inability to demonstrate a five year housing land supply, and policies for the supply of housing are not considered to be up-to-date, Paragraph 11 of the Framework is not engaged where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Designated heritage assets are one such area or asset, as made clear by Footnote 6. Notwithstanding the housing land supply position, in view of the harm to the SHCA identified, Paragraph 11 of the Framework does not indicate a presumption in favour of development in this case.

Conclusion

32. I conclude that the harms I have identified in respect of the main issues results in conflict with the development plan, taken as a whole, which is not outweighed by the other material considerations, including the Framework. Therefore, the appeal is dismissed.

K Savage

INSPECTOR