
Appeal Decision

Site visit made on 25 August 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2020

Appeal Ref: APP/W2465/W/20/3253827

481 Saffron Lane, Leicester LE2 6UG

- 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 Rashid Natha, Wellwood Properties Ltd against the decision of Leicester City Council.
 - The application Ref: 20191931, dated 23 September 2019, was refused by notice dated 20 May 2020.
 - The development proposed is described as the “change of use from shop (Class A1) and premises to shop (Class A1) and six flats (6 x 1 bed); single and two storey side and rear extension; dormers to front and rear; alterations.”
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal submission includes amendments to the proposal that was before the Council at the time of its decision. The appellant has also referred to the amendments as an “alternative” scheme. I have taken these into account as the Council and interested parties have had the opportunity to comment on them during the course of the appeal.
3. The description of development set out in the banner heading above is taken from the planning application form and refers to the Use Class of the shop as it was prior to changes that took place on 1 September 2020¹. Under the Regulations, an application that was made prior to this date is also to be determined with reference to the uses or use classes that were in place prior to that date. Accordingly, I have considered the appeal on this basis.

Main Issues

4. The main issues are (i) the effect of the proposal on the character and appearance of the building and the area; and (ii) whether it would provide suitable living conditions for its future occupiers by way of light, outlook and privacy, and the provision of internal space and private amenity space.

¹ Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

Reasons

Character and Appearance

5. The appeal property is a prominent 2 storey period red brick building that is located on the corner of Saffron Lane with Cyprus Road. It contains a number of attractive features, including intricate brick coursing, the arrangement of original window positions and chimneys. The undisturbed form of the slate roof also compliments the building. It also steps up in height from an attached row of smaller terraced properties, which further reinforces the presence of the building in the area. A less appealing feature is the shop front on Saffron Lane, which is a later addition.
6. A red brick wall encloses the Cyprus Road frontage around a set of high gates, beyond which and set back is a flat roofed garage. The decorative side gable wall and the rear roof plane is prominent in view along Cyprus Road. The area is mainly residential, with local retail and commercial uses, and the buildings are accordingly varied. In these surroundings, the appeal property is a largely attractive building that contributes appreciably to the local character.
7. The proposal would significantly lessen the contribution the building makes to this character by virtue of the extent of the alterations that are proposed to accommodate the development. The proposed rear elevation would bear little semblance to the existing building with a complex 2 storey rear extension with dormer roof extensions positioned above on the existing roof plane. As these elements would be elevated, its discordant appearance would be visible for some distance along Cyprus Road. That the line of the roof ridge would be unaltered would not overcome that the building's attributes would be largely lost by such an arrangement.
8. The proposed side extension on Cyprus Road would project up to the footway, in front of the building line on the nearest properties on the same side as the road. Whilst properties fronting on Cyprus Road elsewhere are common, in my view, the concern is more the combined effect with the proposed 2 storey rear extension and the dormers. Together, they would constitute overly dominant additions that detract severely from the original character of the building. As the building is prominent, the detrimental effect on the area caused by the overall massing and bulk would be pronounced. Compared to the existing shop front, the adverse effect of the proposed replacement would be more limited, but this does not address the broader harm with the remainder of the proposal that I have identified.
9. The alternative scheme has sought to make alterations that limit, to a point, the loss of important features on the building. However, with the amount of change that is proposed, the value of these features would be undoubtably diminished with the loss of much of the character of the original building. The number of openings that would alter the fabric of the building would further contribute towards this loss. They would not relate to the openings on the original building to a sufficient degree and so would not appear synchronised.
10. I am also not persuaded that the loss of the existing brick wall along Cyprus Road would be of such a great benefit in character terms. It encloses what is a secondary frontage in a subservient manner with the more decorative design of the existing side gable wall, set back and separate. It also largely screens the incongruous form of the garage. The existing side gable wall itself cannot be

reasonably considered to be a bland elevation, with the appreciable detailing it contains.

11. The appellant has also suggested the use of planning conditions to overcome a number of the design related concerns. Satisfactory details are not, though, before me in order to establish that the proposal would not be unacceptable in character and appearance terms. Planning conditions are also not intended to modify a development in such a way so as to make it substantially different from that which is proposed.
12. The appellant also considers that the Council has assessed the effect on the character and appearance by way of preference, rather than a policy based approach. A number of the development plan policies that I have been referred to, however, concern good quality design and the effect on character. The policies do not set out a prescriptive approach, but rely on the decision-maker to consider the proposal in light of these policies. The National Planning Policy Framework (Framework) applies a similar approach in relation to achieving well-designed places.
13. In taking these considerations together, I conclude that the proposal would have an unacceptable effect on the character and appearance of the building and the area. As such, it would not comply in this regard with CS Policy 3 of the Council's Local Development Framework Core Strategy (2014) (CS) which concerns high quality well designed developments that positively contribute to the character and appearance, that development must respond positively to the surroundings, and includes urban design objectives, including urban form and character. Similarly, it would also not comply with CS Policy 6 of the CS, where it states that new housing should be in accordance with the design principles set out in CS Policy 3.
14. It would also not comply in this regard with 'Saved' Policy HO7 of the City of Leicester Local Plan (2006) (LP) where it states that planning permission will be granted for the conversion of existing buildings to self-contained flats, provided that the proposal is satisfactory in respect of, amongst other criteria, the proposed or potential changes to the appearance of the buildings, and their settings.
15. It would also not comply with paragraph 124 of the Framework which confirms that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It would also not accord with paragraphs 127 and 130 where they resolve that decisions are to be sympathetic to local character and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.
16. 'Saved' Policy PS10 of the LP concerns residential amenity and so has a limited bearing on character and appearance matters. The same applies as regards the Council's Residential Amenity Supplementary Planning Document (2008) (SPD) which is also referred to in the Council's related reason for refusal.

Living Conditions

17. The residential part of the proposal would include 2 flats at ground floor level, to the side and rear of the shop unit, with the remaining flats provided on the levels above. The proposed rear ground floor flat would have its own private amenity space, whilst the remainder of the flats would rely on a rear communal garden area.
18. The SPD sets out relevant guidance in relation to light, privacy, outlook and private amenity space provision. For the purposes of the SPD, the site lies in the Outer area (minimum density) of the city.
19. Turning first to matters of light, outlook and privacy, the window positions of the proposed side ground floor flat would be located in close proximity to the adjacent footway. This would not be an unusual arrangement on Cyprus Road because much of the existing housing does itself directly front onto the road. Privacy levels would not be appreciably different from the front rooms of those properties. The rooms in this flat would also receive an outlook and light over the footway and the road. The proposed rear ground floor flat would be set in slightly from the footway under the alternative scheme and the rear windows would look over its own private amenity space. The light, outlook and privacy levels to the proposed ground floor flats would not be unsatisfactory.
20. The proposed flats on the upper levels would benefit from an elevated outlook that would also be to the advantage of their light levels, and they would not be overlooked. This would also overcome the fairly short distance to the side wall of the neighbouring property on Cyprus Road in relation to the standards for the rear of properties that are set out in the SPD. With regard to a lack of windows to some of the kitchens, the alternative scheme has removed the partition walls with the respective living rooms, to improve at least the light levels. The lack of windows to some of the bathrooms is not decisive with the need for privacy and the functions of such rooms.
21. The internal living environment of the upper floor flat is, to an extent, dependant on the proposed dormers. It would be a confined arrangement, but this can often be the case when a roof area is converted and reflects that it would be intended to be loft space accommodation. It would not, in overall terms, render the living conditions unacceptable. Accommodation standards that relate to other regulatory regimes are not for my consideration.
22. It does not appear to be in dispute that the size of the communal garden area would accord with the SPD standards. The alternative scheme has also provided access that does not require the use of the footway on Cyprus Road. The proximity of the cycle and bin storage, and the neighbouring property on Cyprus Road, would not be untypical for a domestic garden environment. Some screening is also proposed on the boundary with the private garden area of the rear ground floor flat, so as to protect its privacy levels and not dissuade the use of each outdoor space area. The location of the site in respect of public open space does not alter my views.
23. I conclude that the proposal would provide suitable living conditions for its future occupiers by way of light, outlook and privacy, and the provision of internal space and private amenity space. Therefore, it would comply in this regard with CS Policy 3 and CS Policy 6, and with 'Saved' Policies HO7 and

PS10, where they collectively concern residential amenity matters, satisfactory living environments, communal open space, and privacy and overshadowing.

24. It would comply with the SPD, in overall terms, in relation to how it seeks to assess residential amenity matters. It would also accord with paragraph 127 of the Framework where it concerns a high standard of amenity for existing and future users.

Planning Balance

25. The appellant has stated that the Council cannot demonstrate a deliverable 5 year housing land supply in accordance with the Framework. This has not been contested by the Council. Hence, paragraph 11 d) of the Framework is engaged. Accordingly, the development plan policies which are most important for determining the planning application are out of date. This does not mean they do not apply. However, the conflict with the policies attracts limited weight.
26. The proposal would make a modest contribution to addressing the deficit in housing land supply. It would also bring a vacant building back into active use. There would be minor economic benefits by way of construction and the spend of the future occupiers, and through the shop unit. It would be in a location that would be accessible to local services. The side access and windows would benefit safety and security.
27. The proposal would not be unacceptable concerning the effect on the living conditions of the occupiers of adjacent residential properties and in relation to the living conditions of the future occupiers of the proposal. These are neutral matters.
28. With regard to whether the development would make optimal use of the potential of the site for the purposes of the Framework and with regard to increased densities, such support is not unqualified. This includes character and appearance matters and, similarly, for the development of a windfall site to attract great weight, it has to be a suitable site. With the concerns that I have expressed, this would not be the case with the proposal.
29. In relation to the adverse impacts, the harm that would arise with regard to the effect on the character and appearance of the building and the area would be significant. The quantum of development proposed would result in both the loss of much of the building's pleasing qualities and its contribution to its surroundings. It would be contrary to CS Policy 3 and CS Policy 6, and 'Saved' Policy HO7. Set against this would be the contribution of the proposal to the supply of housing, although with the number of additional units that would result, the weight to be attached to this benefit would be limited. All other benefits also carry limited weight,
30. Taking these matters together, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 11 d) does not indicate that permission should be granted.

Conclusion

31. Overall, the adverse impacts identified above would significantly and demonstrably outweigh the benefits. Consequently, the proposal would not

accord with the presumption of sustainable development, as is set out in the Framework. Therefore, in the circumstances of this appeal, there are no material considerations to justify making a decision other than in accordance with the development plan. For these reasons, the appeal should be dismissed.

Darren Hendley

INSPECTOR