The Planning Inspectorate

Appeal Decision

Site visit made on 13 October 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2020

Appeal Ref: APP/W2465/W/20/3256364
84 Marshall Street, Leicester LE3 5FB

- 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 Miss Meeta Patel against the decision of Leicester City Council.
- The application Ref 20182156, dated 7 January 2018, was refused by notice dated 2 April 2020.
- The development proposed is described as retrospective change of use from a shop to a 1 x 2 bedroom flat with external alterations.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the flat provides acceptable living conditions for occupants in respect of privacy, outlook and outside amenity space.

Reasons

3. The appeal property is two storey and is at the end of a terrace of dwellings at the corner of Marshall Street with Central Road. The appeal relates to the change of use of the ground floor only from a former shop to a two bedroom flat. It includes external alterations to the building in respect new door and window openings. The evidence before me indicates that the building is already in use as a dwelling and that the external alterations have been carried out.

4. The only windows into the ground floor flat face directly onto Central Road and Marshall Street. There are no windows to the rear of the building. Whilst I acknowledge that nearby terraced dwellings have windows that face directly onto the main streets, these properties are two storey and also have windows to the rear where there is a greater degree of privacy. In this case, the occupiers of the appeal flat would be subject to pedestrians walking in close proximity to the ground floor windows serving bedrooms, a lounge and a kitchen. In the absence of the provision of blinds or curtains to these windows, I consider that the occupiers of the flat would be overlooked by passing pedestrians to the detriment of a suitable level of privacy.

5. Whilst it may be possible to address the above privacy concerns by erecting curtains or blinds, I consider that these would need to be closed for significant periods of time. Therefore, this necessary arrangement would have the effect

of creating an oppressive living environment for occupants of the flat leading to a poor level of outlook and well-being.

6. The appellant acknowledges that the flat does not have any outside amenity space. I accept that the planning application drawing does show internal bicycle storage facilities and an internal bin store. However, I consider that it is reasonable for occupants of the flat to have at least some outside amenity space where they can sit out in the sunshine and fresh air, to enjoy more open views and to dry clothes. The Council's adopted Residential Amenity Supplementary Planning Document 2008 (SPD) requires some outside amenity space to be provided for all flats, the exact amount to be determined by location. As no outside amenity space is available for occupants of the flat, there is conflict with the SPD.

7. I do not doubt that it would be possible to install an energy efficient dryer in the flat which of course would need to be used more often in the winter months. However, I consider that existing and future occupiers of the flat should also be afforded the opportunity to dry clothes outside, when the weather permits, given the clear environmental and economic benefits associated with such activity.

8. In reaching the above views about outside amenity space, I have taken into account the fact that it might be possible to provide such space in so far that the appellant says *"the appellant amended the roof to its original height as requested by the case officer but the case officer failed to recommend for an outdoor space to be created at the time, if the officer had requested it at the time the appellant would have created space for an outdoor space although the building originally has not outdoor space"*. I accept that this is a retrospective proposal, but that in itself should not justify the failure to provide some outside amenity space. I note that there was no outside space associated with use of the building as a shop, but this proposal relates to a residential use where some outside space is needed.

9. For the collective reasons outlined above, I find that the development does not provide acceptable living conditions for occupiers in respect of outlook, privacy and outside amenity space. Therefore, it does not accord with the amenity and design requirements of saved policies H07 and PS10 of the City of Leicester Local Plan 2006; policy CS03 of the adopted Leicester Local Development Framework Core Strategy 2014; the SPD and paragraph 127(f) of the National Planning Policy Framework (the Framework).

Other Considerations

10. The Council's delegated officer report states that the *"City Council does not have a five year housing land supply"*. On this basis paragraph 11d of the Framework is engaged. The flat would make a positive contribution to the undersupply position, although it has to be acknowledged that any social and economic benefits from only one residential unit would be limited.

11. The appellant has stated that the Council has approved similar development elsewhere in the City and hence that a precedent has been established. Other than making reference to a planning application reference number and description of development, I have no further details about the other similar developments. I have, in any event, determined this appeal on its individual planning merits.

Overall Conclusion

12. I conclude the identified adverse impacts relating to outlook, privacy and a lack of outside amenity space would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole and in particular paragraph 127(f). In addition, I have found conflict with the development plan for the area and this weighs against allowing the appeal. Therefore, the appeal should be dismissed.

D Hartley

INSPECTOR