
Appeal Decision

Site visit made on 8 September 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2020

Appeal Ref: APP/W2465/W/20/3254722

22A Staveley Road, Leicester LE5 5JT

- 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 Nico Properties Ltd against the decision of Leicester City Council.
 - The application Ref 20200259, dated 30 January 2020, was refused by notice dated 20 May 2020.
 - The development proposed is 9 adaptable apartments for independent living.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council amended the application description to include reference to the proposal falling within use class C2, but the appellant states that they did not agree to this change and that the use applied for is under class C3. The application form is clear that the proposal is for market housing and on the basis of this and the information I have been provided regarding this matter, I determine the appeal on the basis that the use of the proposed development would be within class C3.

Main Issues

3. The main issues are:
 - i) whether the proposed development would provide acceptable living conditions for future occupants, with particular reference to outlook, light and outdoor amenity space
 - ii) the impact of the proposed development on the living conditions of the occupiers of existing dwellings adjacent to the appeal site, with particular reference to outlook and privacy
 - iii) whether the proposed development would be provided with an acceptable means of access and parking provision
 - iv) whether the proposed development would make adequate provision for bin storage and collection

Reasons

Living conditions – future occupants

4. The proposed apartments would be positioned close to the boundary with the car park and dwellings located on Kedleston Road. The boundary with the car

park is currently demarcated by a high brick wall and mature trees of a substantial height, which appear not to be within the appeal site. The boundaries with the dwellings are generally more open, but it would be necessary to erect a fence to screen the ground floor windows on the rear elevation of the proposed apartments to prevent overlooking. As a result, the ground floor windows would be located in close proximity to these boundary structures, resulting in a poor outlook and in limited light levels reaching them.

5. The windows in question serve the living and kitchen areas of the proposed apartments. Whilst these rooms would have an additional window on the front elevation, in respect of ground floor apartments 2, 3, 4 and 5 they would be recessed well back from the frontmost projections of the building and they would have the balconies of the upper floor flats positioned directly above them. Therefore, the outlook from these windows would also be substantially restricted, as would the amount of light that would reach them. This would create gloomy and oppressive living spaces and would fail to provide acceptable living conditions for the future occupants.
6. The outdoor amenity space would be provided communally and would be of sufficient size as an outdoor communal space for the number of apartments proposed. Whilst the Council has raised concern that the provision of useable garden/outdoor amenity space would not be adequate, they have not provided any substantive evidence or reference to policies that would suggest that it would not reasonably meet the needs of the future occupiers. Accordingly, adequate provision of amenity space would be provided to meet the needs of the future occupants.
7. For these reasons, I conclude that the proposed development would fail to provide acceptable living conditions for the future occupants of proposed apartments 2, 3, 4 and 5 having regard to outlook and light. Consequently, the proposal would fail to accord with Policy CS03 of the Leicester City Core Strategy 2014 (CS) and Saved Policy PS10 of the City of Leicester Local Plan 2006 (LP), where they seek to ensure that new developments provide acceptable living conditions for future occupants. The appellant draws attention to Saved Policy H07 of the LP, but there would be conflict too with this policy. There would also be a conflict with The National Planning Policy Framework (The Framework), where it seeks to achieve well-designed places.

Living conditions – existing dwellings

8. The existing dwellings on Staveley Road and Kedleston Road that share boundaries with the appeal site have relatively long rear garden areas. The existing dwellings on Hollington Road have shorter gardens, but they would face the side of the proposed apartment block. The proposal has been designed to respond to the existing built development and includes the use of high level windows and sections of single storey development.
9. In general, this would ensure that harm would not be caused to the living conditions of the occupiers of the existing dwellings. Although part of the two storey section would run along the end of the gardens of some of the dwellings on Kedleston Road, it would be well separated from the dwellings themselves and the parts of their gardens closest to them, so not to cause a harmful loss of outlook. The Council refers to a perception of overlooking from windows on this elevation, however the windows would be narrow high level windows and

therefore would not result in a harmful overlooking impact, either actual or perceived.

10. Adequate distances between the proposed first floor windows and balconies of the proposal and the boundaries would be provided to ensure that there would be no harm to the living conditions of the occupiers on Staveley Road through either loss of outlook or loss of privacy. The relationship to the existing dwellings on Hollington Road would also be acceptable, as the two storey element of the proposal would be set off the common boundary and high level windows would again be used in the side elevation facing these dwellings. There would therefore be no harm to the living conditions of the occupiers of the dwellings on Staveley Road or Hollington Road from a loss of outlook or loss of privacy.
11. For these reasons, I conclude that there would be no conflict with Saved Policy PS10 of the LP where it seeks to protect the living conditions of existing occupiers. There would also be no conflict with the aims of The Framework in this respect.

Parking and access

12. Many of the frontages of the dwellings on Staveley Road have been hard-surfaced to provide car parking. This removes the possibility of on-street parking on the road outside such dwellings. At the time of my visit, Staveley Road and the surrounding streets were heavily parked in what space is available for on-street parking. Therefore, there would be limited potential for these roads to absorb any parking generated from the proposed development that was not able to park on the appeal site.
13. The proposed parking levels would provide one space per apartment with two visitor's spaces. Given that 8 of the proposed apartments are two-bedroomed, I am not persuaded that such a provision, which is significantly short of the maximum of 17 spaces that are specified by the development plan, would meet with the requirements of the development.
14. This would be likely to lead to pressure to park on Staveley Road and the surrounding streets where there is already a deficiency of parking available, potentially leading to parking in a way which obstructs the efficient operation of the public highway and therefore results in an unacceptable impact on highway safety. There is also the potential that occupants of the proposed apartments would seek to park outside of allocated areas on the appeal site, in particular along the private access road. This would impede safe movement into and out of the site by both vehicles and pedestrians.
15. Saved Policy AM12 of the LP allows for the maximum parking standards to be relaxed in certain instances. The appellant also considers that the design of the proposal would promote sustainable travel and points to several development plan policies and to the Climate Change Supplementary Planning Document in this regard. However, whilst there is a bus stop nearby on Chesterfield Road and the proposal would also accommodate cycle parking, there is no substantive evidence to demonstrate that this would adequately mitigate against the parking requirement that would be expected to be generated by a proposal of this type. Therefore, these considerations do not justify the level of parking provision that is proposed and they do not outweigh the concerns I

have identified with respect to the impact that would arise upon highway safety.

16. The appellant has suggested that minor matters relating to parking could be addressed by way of a planning condition. However, it is uncertain as to whether additional parking could be achieved within the current site layout. Therefore, I cannot be satisfied that a condition of this nature could adequately address this matter.
17. Whilst the reason for refusal also refers to concerns relating to the specification of the proposed access, there is no technical objection to this from the Highway Authority. Moreover, the Council's delegated report acknowledges that although the width of the access at the neighbouring building line is less than the standard, given the previous use of the site as a builder's yard, the access would be acceptable in this particular case. Based on this and my own observations, I have no reason to take a different view in this regard.
18. For these reasons, I conclude that the proposal would not provide an acceptable parking provision and that this would result in an unacceptable impact on highway safety. The proposal would therefore fail to accord with Policies CS03 and CS15 of the CS and Saved Policies AM01 and AM12 of the LP, where they refer to highway safety. Saved Policy AM02 of the LP relates to the provision of facilities for cyclists, and any deficiency beyond the provision shown on the plans could have been addressed by way of a planning condition, thus ensuring no conflict with this policy. There would however be conflict with The Framework, where it seeks to ensure that development does not have an unacceptable impact on highway safety.

Bin storage

19. The plans submitted show that a bin store would be positioned close to the access from Staveley Road and that it could be accessed by a bin lorry reversing back into the private drive. Whilst the Council does not consider that this would be acceptable and that bins would need to be brought to the highway for collection, it does support the principle of some degree of residential redevelopment on the appeal site, which in any form would require the storage and removal of domestic waste. Whilst there is a difference in the approaches adopted by the parties as to how bin storage and collection could be managed, based on all I have seen and read, it is likely that an acceptable solution could be found. This is not therefore a matter which should prevent the delivery of new housing on the appeal site.
20. Accordingly, I find that there would be no conflict with Policies CS03, CS14 and CS15 of the CS or with The Framework with respect to bin storage. The Council's reason for refusal refers to the Waste Management Guidance Notes for residential properties but I have not been provided with these documents or details of their status. However, this does not alter my findings on this main issue.

Other Considerations

21. The parties agree that the Council cannot demonstrate a 5 year housing land supply, but I have not been provided with details of the extent of the shortfall. However, by virtue of footnote 7, the shortfall triggers paragraph 11d) of The Framework. I have not been made aware that the proposed development

would harm any areas or assets of particular importance, and therefore paragraph 11d)ii) is the relevant part of The Framework in this case.

22. The main benefit that would arise in this instance would be the delivery of new housing, which must be considered against the shortfall in the 5 year housing land supply that the Council is able to demonstrate. The delivery of new housing must carry weight in favour of the proposals, owing to the fact that it would serve to reduce the shortfall and that the proposed development would represent a re-use of previously developed land in an urban location.
23. However, due to the number of dwellings proposed, this contribution would only be modest and therefore, even if the shortfall in the 5 year housing land supply were to be significant, I can afford only moderate weight to the benefits of the delivery of new housing that would arise as a result of the appeal proposal.

The paragraph 11d)ii) balance

24. When triggered, Paragraph 11d)ii) of The Framework states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework taken as a whole. I have already established that the delivery of new housing would be a benefit and carries moderate weight in support of the proposal.
25. However, the adverse impacts arising from the failure to provide acceptable living conditions for future occupants and an inadequate parking provision carry substantial weight against the proposal. The adverse impacts would therefore significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework taken as a whole. Accordingly, I conclude that the proposal does not benefit from the presumption in favour of sustainable development that is set out in Paragraph 11 of The Framework.

Other Matters

26. The Council has concerns that the proposed development would prejudice the potential development of the car parking area located on Kedleston Road which shares a boundary with the site. However, I have not been provided with any evidence to suggest that development is imminently likely to come forward on this site or how the appeal proposal may ultimately prejudice the development of the site. Therefore, I afford this matter limited weight.

Planning Balance and Conclusion

27. The proposal would not accord with Policies CS03 and CS15 of the CS and Saved Policies PS10, H07, AM01 and AM12 of the LP, where they seek to ensure that new developments provide acceptable living conditions and to safeguard highway safety. The conflict with these policies means the proposed development would conflict with the development plan, taken as a whole. Whilst the provision of housing would be a benefit of moderate weight, it does not outweigh the harm that would result from the proposed development and the resultant conflict with the development plan. Furthermore, for the reasons I have outlined, the proposal does not benefit from the presumption in favour of sustainable development set out by The Framework.

28. Therefore, there are no material considerations which indicate that the determination of this appeal should be made otherwise than in accordance with the development plan, and I conclude that the appeal should be dismissed.

Graham Wraight

INSPECTOR