



Appeal Decision

Site visit made on 24 November 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2020

Appeal Ref: APP/W2465/W/20/3258096
555-557 Melton Road, Leicester LE4 7SJ

- 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 Joshi against the decision of Leicester City Council.
 - The application Ref 20200875, dated 21 May 2020, was refused by notice dated 14 July 2020.
 - The development proposed is part of change of use from a house [Class C3] to day care centre [Class D1] at the ground floor.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) the effect of the proposal on the living conditions of neighbouring occupants in respect of privacy, standard of accommodation, noise and disturbance; ii) the effect on highway safety in terms of parking to the front and rear of the site.

Reasons

Site and Proposal

3. The appeal site comprises a pair of semi-detached dwellings which face onto the busy dual carriageway of Melton Road, but are also accessible at the head of the cul-de-sac of Thomson Close at the rear. No 557 has a full depth, single storey extension to the side of the site, with a shorter rear garage extension to No 555. The rear garden area between the dwellings was fully paved and appeared to be a shared space with no dividing boundary.
4. The proposal seeks to form a day care centre for elderly people. The ground floor of No 555 would become a living and dining area, whilst the kitchen and bathroom of No 557, which are located in the rear extension, would be shared by the day care centre and the single retained residential unit within the rest of the building. That unit would comprise a living area to the front half of the ground floor of No 557, and four bedrooms and two bathrooms across the first floors of both properties. Four parking spaces are indicated to be provided at the front, with a further two at the rear, one within the garage of No 555. Between these, a shared 'amenity space' is proposed.
5. The day care centre is proposed to operate between 1000 and 1500 hours Monday to Friday, forming part of the operations of a local non-profit organisation which supports the local community. The Council acknowledges

support for community facilities in existing neighbourhoods under Policy CS08 of the Core Strategy Development Plan Document (June 2014) (the CS), and Policy H05 of the City of Leicester Local Plan 1996-2016 (January 2006) (the CLLP), which resists the loss of a dwellinghouse unless justified by the provision of other community benefits.

6. However, the Council indicates this support is subject to compliance with saved Policy PS10 of the CLLP, which requires consideration of the effect on the amenity of existing and proposed residents. Policy CS03 of the CS adds that development must respond positively to the surroundings and be appropriate to the local setting and context.

Living Conditions

7. The proposal would provide a shared environment where staff and users of the day care centre would share the kitchen, ground floor bathroom and outdoor space with the occupants of the residential unit. Whilst this is indicated to only take place between 1000 and 1500 hours Monday to Friday, it has the potential to give rise to conflict between the two uses, in terms of inconvenience where the facilities are in demand by both uses at the same time and in terms of privacy and freedom of residents to use the property given that non-resident users, staff and visitors of the day care centre would be able to come and go within parts of the building also forming the residential unit.
8. The day care centre is intended to facilitate up to eight users and two staff. The appellant indicates a management plan would be prepared, but no details are before me in this respect. Ten people are likely to give rise to a noticeable level of activity which would generate noise and disturbance for occupants of the residential unit and neighbouring dwellings. It is reasonable to consider that these numbers may increase at times due to other staff, visitors and deliveries. This would further increase levels of noise and disturbance to the detriment of nearby residential occupants, which would be difficult to mitigate through a management plan given the noise would be from general activity.
9. The appellant argues that the proposed mixed use would be no more intensive than use as two separate dwellings. I do not agree, as two separate dwellings would be unlikely to have as many people present through the day, when dwellings are typically quieter. Moreover, whilst the appellant has submitted results of a noise insulation report with the appeal, this would only address noise transfer through walls and would not address the increased propensity for noise, disturbance and loss of privacy arising from occupants having to make use of shared areas within the property.
10. The Council indicates the minimum size for a rear garden under its Residential Amenity Supplementary Planning Document (February 2008) (SPD) for a three bedroom house is 100 sqm. In this case, the four bedroom dwelling would be provided with just 71 sqm of amenity space in a confined area between the garage and rear parking space. Not only would the space fall short of the SPD standard, it would be a shared space for users of the day care centre and next to the location for pick-ups and drop-offs. As such, it would fail to provide a sufficiently large or suitably private space for occupants of what would be a family-sized residential unit, further undermining their living conditions.
11. The increased activity of the day care centre would also result in more vehicular movements to and from the site as users, staff and deliveries arrive

- and depart. The appellant states that users would be brought to and from the day care centre via minibus once a day, accessing the site via Thomson Close to the rear and parking in the garage of No 555. I saw the garage to be quite small in size, and I am doubtful that a minibus, given its likely height, would be able to fit into it. Moreover, there would be insufficient space for people to alight from the bus inside the garage, and whilst there is space in front, this is accessed through a narrow gate and unlikely to be frequently used. The gate to the parking space of No 557 is also narrow and does not align with the dropped kerb outside the site. The position of the entrance close to the corner of the turning head would create difficulty for a larger vehicle to manoeuvre into and out of the site. As such, I am not persuaded that either of the rear off-street spaces represents a realistic option for parking related to the day care centre.
12. Based on my observations of the site, the more likely occurrence is that pick-ups and drop-offs would take place within the turning head of the cul-de-sac, which has a number of adjacent entrances to properties that would be blocked by a parked or manoeuvring minibus. Should any users arrive by car or taxi, this would add to the volume of traffic. I saw cars parked up on the footpaths on both sides of Thomson Close, which allows for a only single vehicle to pass. Given these already constrained road conditions, the increased use of the turning head to facilitate access to the day care centre would cause disturbance and inconvenience to existing residents.
13. In reaching a judgement, I note that the appellant intends to live in the residential unit himself and would, presumably, accept the proposed arrangement, and that future occupants would be aware of the nature of the mixed use before choosing to reside there. However, the planning system works for the overall public interest and though some people may be willing to tolerate what would ostensibly be a family home with a shared kitchen and garden, this does not mean that it should be permitted given there has been planning harm identified in respect of living conditions which would be permanent and would affect all future occupants and neighbours.
14. Overall, therefore, the proposal would cause significant harm the living conditions of neighbouring residents, in terms of loss of privacy and increased noise and disturbance from additional traffic and parking demand. Consequently, the proposal would conflict with Policy CS03 of the CS and Policy PS10 and H05 of the CLLP, which require good quality design which, amongst other things, contributes positively to an area's character; creates buildings and spaces which are fit for purpose; and has regard to the effect on existing and proposed residents in terms of noise, additional parking, vehicle manoeuvring, privacy, and the ability of the area to assimilate development. These policies are consistent with the National Planning Policy Framework (the Framework), which requires developments to create places with a high standard of amenity for existing and future users.
15. In light of the harm identified, the proposed community use would not justify the loss of a dwelling house in this case and there would be consequential conflict with Saved Policy H05 of the CLLP.

Highway Safety

16. Four parking spaces are proposed to the shared front drive of the two properties. Vehicles would have to cross the footpath and a cycle lane to reach the main carriageway of the A607 Melton Road. I saw that a number of

neighbouring properties have paved over the front gardens to provide off-street parking, but many do not have a corresponding hard surface and dropped kerb out to the carriageway. The Council suggests these spaces have been created without consent, though I do not have the evidence to verify this.

17. On site, I saw the front boundary wall at No 555 has already been removed and the whole frontage of Nos 555-557 is paved with space for four vehicles. However, I saw there to only be a dropped kerb in front of one space, and bollards have been placed to prevent vehicles from crossing the verge where no dropped kerb exists or from driving along the footpath or cycle lane. Tyre tracks across the grass suggest such manoeuvres may happen, nonetheless.
18. The A607 is a busy arterial route into the centre of Leicester. The works undertaken have doubled parking capacity at the front. Given the restrictions I have identified with the two parking spaces at the rear, these spaces are likely to be used frequently, whether by occupants of the residential dwelling or staff or visitors of the day care centre. There is not a dedicated crossover serving all spaces. As a result, the vehicles parked in front of No 555 would have to enter the carriageway across a raised kerb, possibly by also crossing over the footpath, cycle path and grass verge. Such manoeuvres would be dangerous to pedestrians, cyclists and motorists as they would be made at points where other road users would not expect vehicles to emerge. The hazardous nature of the access would be exacerbated by vehicles having to either stop on the dual carriageway and reverse in across the cycle track and footpath, or reverse out into traffic as vehicles cannot turn within the site.
19. As set out above, the use of the rear turning head for parking and manoeuvring of larger vehicles associated with the day care centre and additional traffic along the narrow Thomson Close would increase the risk of conflict between motorists and pedestrians and so threaten highway safety. I acknowledge the alternative parking options referred to by the appellant, but these are located off-site and would not offer reasonable alternatives to pick-ups and drop-offs at the site, particularly for any visitors with restricted mobility.
20. For these reasons, I find the proposal would have an unacceptable effect on highway safety, and would conflict with Saved Policies AM01, AM02, AM11, AM12 of the CLLP and Policies CS03, CS14 and CS15 of the CS, which together require developments to incorporate the needs of pedestrians and cyclists into the design, to integrate appropriate levels of safe car parking and promote sustainable modes of transport. There would also be conflict with the similar aims of the Framework to provide safe and suitable access to the site for all users. give priority first to pedestrian and cycle movements. The Framework adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

21. The proposal would be operated by a local community organisation which provides support for elderly and vulnerable people, including through operating a food bank. The appellant refers to the need to protect elderly residents from Covid-19 as existing day care facilities are located at the Shri Hindu Temple & Community Centre, which is used on a daily basis for other events and so attracts more people. I also acknowledge the petition submitted by the appellant indicating local support for the proposal.

22. However, I have little detail before me as to the exact nature of the difficulties using the existing facility, nor any evidence that other options have been explored. The intention to place up to 8 elderly people in an enclosed and shared space also seems to be at odds with the prevailing social distancing guidelines for Covid-19. On the evidence before me, I find that it has not been demonstrated that the proposal would be essential to meet the needs of the community, but I accept that in providing an additional facility, there would be some limited community benefit.
23. The Council did not oppose the proposal on the basis of the effect on the character and appearance of the area and having viewed the site and surroundings, I do not reach a different conclusion. This is a neutral matter weighing neither for nor against the proposal.
24. I have had regard to other matters raised by interested parties, beyond those encapsulated by the main issues above; however, I have not identified any other issues of such significance as to result in further benefits or harms to be factored into the planning balance.

Planning Balance

25. I regard the aforementioned development plan policies as the most important for determining the application and find that they are consistent with the Framework and are not out-of-date. Therefore, the tilted balance at Paragraph 11 of the Framework is not engaged and the proposal falls to be determined against the development plan, taking account of other material considerations.
26. There would be limited social benefits from providing a small scale community use, and modest economic benefits from additional employment and spending on goods and services related to the day care centre.
27. Set against this, the proposal would result in significant harm to the living conditions of future occupants of the residential unit and neighbouring occupants, and would create conditions harmful to pedestrian, cyclist and highway safety. The loss of a dwellinghouse would also attract limited weight against the proposal. Consequently, the proposal would not achieve the three objectives of sustainable development set out in the Framework.
28. In my judgement, the benefits of the proposal, taken together, would not amount to material considerations which would outweigh the identified conflicts with the development plan, to which I afford significant weight, and would not justify a decision being made other than in accordance with the development plan, taken as a whole.

Conclusion

29. For the reasons given, and taking all other matters into account, the appeal is dismissed.

K Savage

INSPECTOR