
Appeal Decision

Site visit made on 23 March 2021

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 21 April 2021

Appeal Ref: APP/G2435/W/20/3263245

4 Avenue Road, Ashby de la Zouch, Leicestershire, LE65 2FE

- 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 R Morgan against the decision of North West Leicestershire District Council.
 - The application Ref 19/02287/FUL, dated 25 November 2019, was refused by notice dated 28 September 2020.
 - The development proposed is erection of bungalow and conversion of outbuilding to dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I note that the application as originally submitted included the construction of a detached bungalow on the site as well as the conversion of the existing annexe to a single dwelling. However, the application was amended after its submission deleting the proposal for a single dwelling. Notwithstanding the description of development set out above I have determined the appeal on the basis of the proposal that is set out on the decision notice issued by the Council refusing planning permission for the conversion of a two-storey outbuilding to one dwelling. The address is the same as that given on the application for planning permission.

Main Issues

3. The main issue is the effect of the development on highway and pedestrian safety on Avenue Road.

Reasons

Highway safety

4. The appeal site lies within the built-up area of Ashby de la Zouch in an area of terraced housing. The proposal involves the conversion of an existing two storey annexe for use as a separate dwelling. Access to the annexe, the existing dwelling fronting the street (No 4 Avenue Road) and rear access to No 6 Avenue Road all use an archway which passes under No 6 Avenue Road.
5. In addition to the annexe, the area to the rear of No 4 Avenue Road includes parking for the existing dwelling and garden space. There is also sufficient

- space for vehicles to turn round so that they are able to leave the site in a forward gear.
6. The archway through which all vehicular traffic wishing to gain access to the rear of No 4 must pass is restricted in width and height. It appears to be common ground between the parties that it is around 2.5m wide. The standard width required by the County Highways Authority (CHA) for an access serving 2-5 dwellings is 5.25m where the access is bounded by a wall, hedge, or fence as in this case. This is to allow vehicles to pass within the access without having to stand on the public highway.
 7. On the street side of the access there is a narrow footway. To the right of the access, when exiting the site, is a wall which encloses the front of No 6. This obstructs visibility in this direction.
 8. To the left of the access is the area to the front of No 4 which is unenclosed, however there is a porch attached to No 4 which encroaches into this area.
 9. Avenue Road itself is a through route, which is subject to a 30mph speed limit and on street parking outside the appeal site, although there are no marked bays. At the time of my site visit in the afternoon of a working day the majority of the parking spaces appeared to be in use and there was parking close to either side of the vehicular entrance to the appeal site.
 10. The occupants of the existing annexe generate traffic movements as has been demonstrated by the appellant through his evidence. The quantum of trips generated by the annexe would depend to a large extent on how it is used in conjunction with the principal house. For example, if it was used solely for accommodating visitors that use could be low intensity and infrequent. However, if it was occupied by the employed adult children of the occupants of the main house then that use would be more intensive. As a result, if the annexe and No 4 were operating as a single household the number of trips should be less than two households operating from the appeal site as it is likely that trips would be combined.
 11. Therefore, its use as an independent dwelling would be likely to generate regular trips in terms of access by its occupants to employment, shopping, and other activities. The existing dwelling at No 4 would also generate trips of this nature.
 12. Consequently, and notwithstanding the evidence supplied by the appellant, the use of the appeal building as a separate/independent dwelling would be likely to generate a greater intensity of vehicular activity than that of the annexe. Furthermore, that activity would be likely to be more frequent and regular than if it was used as an annexe.
 13. Moreover, it is more likely that with the use of the building as a separate dwelling, that cars leaving the rear of No 4 will encounter cars attempting to enter the site. This is because if the site is used by one household, the annexe and No 4, it is easier for the occupants to coordinate their trips and therefore reduce the potential for conflict between vehicles in this area.
 14. In terms of the visibility at the access this would be restricted to the right by the presence of the wall in front of the neighbouring property. Additionally, the street in front of the dwellings along the north side of Avenue Road is used for parking. This parking can encroach upon the visibility splays at the entrance to

- the site. Indeed, at the site visit I noted cars parked on the street close to the entrance to the appeal site.
15. The accepted standard for visibility, outlined in '*Manual For Streets*' in these circumstances is 2.4m back from the carriageway edge and extending to 26m in each direction. The CHA have stated that they would accept 25m. It is clear from the evidence I have seen that the required visibility standard can be achieved to the left of the access, but not the right. The achievable standard of visibility to the right is 4m.
 16. '*Manual for Streets 2*' advises that a minimum distance of 2.0m may be considered in some slow speed situations where flows on the minor arm are low. This reduced standard accepts that cars will protrude slightly into the carriageway of the major arm and many drivers will nose out cautiously into the traffic. The achievable standard of visibility to the right with this reduced distance is 6m.
 17. The appellant has demonstrated that the Y distance to the right can be achieved at the entrance by the vehicle leaving the site encroaching further into the carriageway than is accepted by '*Manual for Streets 2*'. However, this would mean that the front of the car would extend 1.7m into the street in order to be seen by cars approaching from that direction, and 4.1m into the street for the driver of the exiting car to see the approaching car. These encroachments are significantly more than those anticipated in the guidance.
 18. The lack of the appropriate visibility at the entrance to the appeal site would cause a danger to the users of the public highway. This would include cyclists who might not be seen by vehicles exiting the site as they would be closer to the cars parked at the side of the road. Moreover, they might have difficulty distinguishing between the car emerging from the access and other parked cars in the street, especially if the car emerging from the access was moving very slowly. Furthermore, the lack of visibility of pedestrians at the access would exacerbate this danger.
 19. As a consequence of the increase use of the access, brought about by the creation of an additional dwelling, its restricted width and lack of visibility where it meets the public highway, danger would be caused to users of the access, the public highway and the footpath. The National Planning Policy Framework (the Framework) states, amongst other things, that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety. I find the increase use of this access and the lack of adequate visibility where it meets the public highway would have an unacceptable impact on highway safety in this location.
 20. The development plan comprises the North West Leicestershire Local Plan, adopted in 2017 (LP) and the made Ashby de la Zouch Neighbourhood Plan 2011-2031 (NP).
 21. Policy IF4 of the LP seeks, among other things, to ensure that new development takes account of the impact on the highway and incorporates safe and accessible connections. I find that the appeal proposal is in conflict with this policy as it fails to secure a safe access to the public highway for the reasons given above.

22. Policy H3 of the NP supports the development of 'windfall' sites provided that its criteria are complied with. The criterion which relate to highways and transport seek to ensure that developments provide for safe vehicular and pedestrian access to sites and that development would not result in an unacceptable impact on its own or in combination. I find that the appeal proposal is in conflict with this policy as it does not provide for a safe vehicular access and for the safety of pedestrians using the footpath outside the site.
23. I therefore find that the proposal is in conflict with the policies of the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. I have had regard to the matters advanced by the appellant but find that they do not outweigh the conflict I have identified with the development plan.

Other Matters

24. The effect of the proposal on the River Mease Special Area of Conservation has been referred to as part of this appeal. However, as I am dismissing the appeal on other grounds, I am not required to consider this matter any further.
25. The presence of listed buildings in the area has also been raised as a possible issue. However, given the proximity of the listed buildings to the appeal site I do not consider that the appeal proposal would cause harm to them or their setting.
26. The appellant has drawn my attention to an appeal decision (APP/N1025/W/16/3155544) at another location in the County. I have had regard to this appeal decision, however it appears that there are material differences between this site and the site before me. For example, the street in the appeal decision supplied has traffic calming installed and there is no mention of on street parking. Therefore, I do not consider that the two sites are directly comparable from the information set out in the appeal decision.
27. Finally, I understand that the proposed dwelling would contribute to the supply of new homes in the District, however this benefit does not outweigh the harm to highways safety I have identified.

Conclusion

28. I find that the appeal must be dismissed.

Peter Mark Sturgess

INSPECTOR