



Appeal Decision

Site visit made on 12 October 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2021

Appeal Ref: APP/W2465/W/21/3274835

19 Hardys Avenue, Leicester LE4 7SB

- 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 Kiran Chauhan against the decision of Leicester City Council.
 - The application Ref 20202452, dated 2 December 2020, was refused by notice dated 25 March 2021.
 - The development proposed is demolition of garages, construction of one dormer bungalow and rear outhouse.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. I have given the Council and the appellant the opportunity to comment upon the implications of this for their respective cases.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area;
 - the living conditions of the occupiers of Nos 19 and 25 Hardys Avenue with particular reference to outlook and daylight, and No 19 with particular reference to privacy; and,
 - highway safety.

Reasons

Character and appearance

4. Hardys Avenue comprises a narrow carriageway lined mostly with bungalows on both sides, particularly in proximity of the appeal site. Many in the street scene have been the subject of alterations such as rendering, porch additions and occasional skylights visible. However, they integrate hipped or gable front or side facing roofs with a general consistency in height range. While the appeal site differs from many by having a double garage and wide side return, the limited height of the garage means overall, it is in general keeping with and makes a neutral contribution to the character and appearance of the area.

5. The new dwelling would leave sufficient space for pedestrian side gates and returns either side, in keeping with many nearby. Therefore, the new dwelling would not appear cramped in its plot. However, it would integrate a front facing gable of a sufficient height to accommodate a new front facing first window and habitable room. As a consequence, it would be markedly different in appearance to the front elevations of other properties nearby.
6. Furthermore, the new dwelling would be significantly higher than neighbouring and nearby properties on Hardys Avenue, as well as integrating a rear flat first floor roof. The cross-gable and first floor flat roof would create a significant mass and bulk, highly discernible from the street scene. It would be the only such roof and first floor windowed gable in the street scene. As a consequence of its height, front first floor gable design and cross gable roof, it would be a dominant and somewhat jarring addition to the street scene, which would be at odds with and significantly harmful to the character and appearance of the area.
7. The appellant has referred to some two storey houses on Hardys Avenue, but these are at the opposite end, some significant distance away, do not integrate the same roof form, and do not form the immediate visual context of the appeal site. While I note the wide palette of materials in the area and the materials set out by the appellant, I do not find a policy conflict or harm in this regard. The suggested materials and planning conditions could not overcome the harm I have found.
8. For the reasons set out above the development would be significantly harmful to the character and appearance of the area. It would conflict with Policy CS03 of the Leicester City Core Strategy (2014) (the LCCS) which expects development to be well designed, respond and contribute positively to the character and appearance of its surroundings, including in respect of height, architecture, and massing. It would also conflict with paragraphs 130 and 134 of the Framework which, amongst other things state development should maintain a strong sense of place, be sympathetic to the local character of the surrounding built environment, and development that is not well designed should be refused, especially where it fails to reflect design policies.

Living conditions

9. The rear façade and a side projection of No 19 includes windows that serve habitable spaces. The new dwelling would integrate sizeable blank two and single storey elevations extending approximately 6.5m to the rear of the main rear façade of No 19 a short distance from its side boundary. It would result in a significant increase in built development at the appeal site when viewed from the rear windows of No 19. Such would be the height, depth and proximity to the existing windows, the development would be significantly overbearing. This would be such that it would result in a harmful loss of outlook from the windows, resulting in harmful living conditions to the occupiers of No 19.
10. The new flank wall would create a high deep barrier to the south east of No 19. Its height and orientation would have a significant effect upon the sunlight received through the ground floor rear windows of No 19 and part of the garden. The reduction in daylight and the overshadowing would be for a significant duration in time during the mornings, particularly during some shorter months of the year. It would result in some materially darkened poorly lit rooms in No 19. Based upon the evidence before me, the degree and

duration of this would result in harmful living conditions to the occupiers of No 19 with reference to loss of daylight.

11. Neighbouring No 25 includes a clear side facing window which based upon what I saw and the evidence before me serves a habitable room, currently enjoying a good degree of outlook and daylight. However, it is dependent upon the window for all of its outlook. The flank elevation on the same side as No 25 would extend close to the depth of No 25, resulting in the single and two storey blank flank elevation wall in very close proximity to and opposite the side facing window, extending a significant degree south west of the window.
12. As consequence of its height, depth, and proximity the flank wall would be significantly overbearing, resulting in a significantly harmful loss of outlook to the side facing room of No 25. For similar reasons and also having regard to the obscure glazed door at No 25, the development would provide a significant barrier to daylight entering that room, resulting in a darkened and poorly lit room. The effect would be such that it would result in harmful living conditions to the occupiers of No 25 with particular reference to loss of daylight and outlook. Conditions could not overcome the harm I have found.
13. I note the appellant's suggestion that having a limited outlook, particularly through side facing windows, is a characteristic of the area, with reference to photographs of No 7 and 7A. At my site visit I was able to view some similar properties. However, from what I saw of these the windows were larger, or not in such close proximity as the new dwelling and No 25, and none appeared to have the same bulk, mass, and height of the new flank elevation. Therefore, they do not appear directly comparable to the situation that would result from the appeal proposal. Furthermore, simply because there may be other properties where occupiers might be subject to harmful living conditions, this does not justify allowing other proposals that would result in harmful living conditions.
14. The plans show the new dwelling benefitting from one side pedestrian access along the boundary with No 25, but also a 'shared' access adjacent and within the garden of No 19. It indicates a gate within the fence separating No 19 and the new dwelling, although the location of it is not clear. The shared access would allow occupiers of the new dwelling access to through the rear garden of No 19, meaning the garden space would not be fully private. Occupiers of the new dwelling using the shared access could also gain clear and close proximity views into the rear windows of No 19. The appellant has not put it to me the harm could be addressed by means of a planning condition. Therefore, the development would result in a significantly harmful loss of privacy, resulting in harmful living conditions to the occupiers of No 19.
15. For the reasons set out above the development would result in harmful living conditions to the occupiers of Nos 19 and 25 Hardys Avenue with reference to outlook and daylight, and No 19 with reference to privacy. This would conflict with the objectives of Policy PS10 of the City of Leicester Local Plan (2006) (CLLP) which expects development to consider the effects on neighbouring occupiers including with reference to visual quality and privacy. There would also be a conflict with the design advice in section 3 of the Residential Amenity Supplementary Planning Document (2008) (the SPD), which states that the distance between a principal window and blank elevation should be at least 15m to ensure sufficient outlook/privacy. It would also conflict with paragraph

130f) of the Framework which seeks development promotes health and well-being with a high standard of amenity for existing and future users.

Highway safety

16. The appeal site provides a driveway and garage parking. Although the number of spaces has not been confirmed, from what I saw it would provide approximately 5 spaces. While my site visit can only represent a brief snapshot in time, there were some vehicles parked on the highway, but a considerable number of on-street spaces were available on Hardys Avenue. To ensure vehicles do not obstruct the free flow of the carriageway, they are permitted to park part mounted on the footway in accordance with highway markings, narrowing the footway width.
17. The proposals would be likely to reduce off-street parking at the appeal site and No 19. The evidence before me indicates the host dwelling would have 1 or 2 spaces the new dwelling would have 2 off-road spaces. While they would be off a sufficient width, they would measure approximately 5.2m, which would be 0.3m below the Council's suggested standard.
18. As a consequence of being below the required standard there is an increased likelihood of cars hanging off the driveway. However, the overhang is likely to result in a similar incursion over the footway as vehicles parked within the markings and vehicles would not be likely to park across the dropped kerb. From what I saw the footway width would remain sufficient to allow pedestrians, wheelchairs, and people with buggies to navigate the footway safely. The evidence does not demonstrate there is not sufficient on-street parking available to accommodate the likely reduction in off-street parking as a result of the appeal proposal, and I have not been provided with evidence of parking stress in the area. Therefore, it has not demonstrated the development would be harmful to highway safety.
19. For the reasons set out above, while the development would provide parking spaces below the standard size and increase the potential for on-street parking, based upon the evidence before me it would not be likely to be prejudicial to highway safety. Accordingly, I do not find a conflict with Policies AM1 and AM12 of the CLLP or Policies CS14 and CS15 of the LCCS. Amongst other things these seek to ensure the needs of pedestrians and people with disabilities are successfully incorporated into designs, and that an appropriate level and specification of car parking is provided for new residential development, having regard to its location.

Planning Balance

20. The Council has advised it cannot demonstrate a 5 year housing land supply (HLS), therefore, the tilted in paragraph 11d) of the Framework is engaged. The development would result in a small economic benefit during construction and a small, sustained benefit to the local economy once occupied. It would contribute to boosting the supply of housing, make more efficient use of the site in seeking to meet this objective, and could be built out relatively quickly. The precise shortage of HLS is unclear, but even if it were very acute, one additional dwelling in an accessible location would be a limited social benefit attracting limited weight in favour of the scheme. Overall, the benefits attract limited weight in favour of the scheme.

21. The Council has not expressed an objection to the proposed outbuilding. If I were to share this view this would be a neutral matter attracting neutral weight. Similarly, compliance with policies in respect of parking and highway safety are also neutral matters attracting neutral weight. If I were to agree the development is or could be made compliant with policies in respect of materials, accessibility, floorspace and garden space, energy and resource efficiency, surface water drainage, and the living conditions of future occupiers of the dwelling, these would all be neutral matters attracting neutral weight.
22. However, the policy compliance and benefits of the development do not outweigh the significant harm to the character and appearance of the area and the harmful living conditions of the occupiers of Nos 19 and 25 Hardys Avenue, which are such that these matters attract significant weight against the scheme. Therefore, the harm from the development significantly and demonstrably outweighs the benefits of the development when assessed against the policies in the Framework taken as a whole.

Conclusion

23. The proposed development conflicts with the development plan and the Framework taken as a whole. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR