



Appeal Decision

Site Visit made on 11 October 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2021

Appeal Ref: APP/W2465/W/21/3277177

120 Cavendish Road, Leicester LE2 7PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Singh against Leicester City Council.
 - The application Ref 20210660, is dated 1 March 2021.
 - The development proposed is construction of new pitched roof to replace existing flat roof, and rear dormer windows to create (1 x 1-bed) flat (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised plan¹ (the revised plan) has been submitted at appeal stage that supersedes a previously submitted drawing². The revisions made relate solely to the illustrated positions of parked vehicles to the front and rear of the site and are minor in nature and extent. In this context, I am satisfied that no party with an interest in the outcome of this appeal is prejudiced by me accepting the revised plan for determination purposes.
3. The Council has indicated that it would have refused planning permission had it been in a position to do so. Its main concerns relate to the acceptability of the accommodation and amenity area proposed to be provided for future occupiers, the accessibility of bin and cycle storage facilities, and the quality of the intended parking provision. I shall formulate the main issues accordingly.

Main Issues

4. The main issues are:
 - Whether or not acceptable living conditions for future occupiers of the development would avail, having particular regard to internal living arrangements and the accessibility and quality of private external amenity space;
 - Whether or not the intended storage facilities for refuse and cycles would be suitably accessible; and
 - Whether or not acceptable parking opportunities for future occupiers would be provided.

¹ A1-001 Issue C

² A1-001 Issue D

Reasons

Living conditions

5. The site contains an existing two storey building (the building) that is comprised of four self-contained flats. An area of hardstanding offering parking (the hardstanding) is located to the front of the building, whilst an external yard served by a gated access (the yard) exists to the rear. Although a small area was fenced off to indicate a direct association to the building, I observed most of the yard to seemingly provide a servicing/external storage function for neighbouring commercial operations served by the same access.
6. The proposal involves the introduction of a one-bedroom flat of modest internal dimensions. The Council has accepted that the extent of internal floor space to be created would exceed 37 square metres in accordance with the relevant nationally described space standard. Whilst it is my understanding that such standards are not endorsed via the development plan, they remain a material consideration and provide a useful reference point when assessing the suitability of proposals for new housing. Indeed, on balance, I am satisfied that acceptable internal living arrangements would be provided.
7. The scheme also includes a reconfiguration of the southernmost portion of the yard. The existing residential amenity space is intended to be redefined alongside the provision of formalised facilities for the storage of cycles and refuse. The Council's Residential Amenity Supplementary Planning Document (February 2008) (the SPD) indicates that a minimum of 1.5 square metres of private amenity space should be provided by way of a balcony or shared space for any new one-bedroom flat. I acknowledge that, if to genuinely function as private amenity space for future occupiers of the development, the 1.5 square metre standard would be exceeded by the intended provision at this site.
8. However, the proposed external amenity space would be of constrained extent and set remote from the building's frontage (from where access to the new flat would be drawn). It would also be in immediate proximity to commercial operations and set adjacent to various openings that serve existing ground floor flats. Although it is my understanding that the gates to the side of the building would not preclude access being obtained, it is unlikely that future occupiers of the proposed flat would identify with the intended amenity space as a high-quality shared space for their utilisation. Indeed, notwithstanding the arrangements currently in place at the site, it has not been satisfactorily demonstrated that it would be either practical or realistic to expect any future occupier of the proposed flat to actively seek to use the intended external amenity space (or any part of it) for their own personal enjoyment.
9. Whilst acceptably sized internal accommodation is proposed, I find that the intended external amenity space would not be suitably positioned or laid out to promote that it functions as a high-quality useable facility for any future occupier of the proposed second floor flat. Thus, in the absence of readily accessible private external amenity space of suitable quality, acceptable living conditions for future occupiers would not avail. I identify harm on this basis.
10. The proposal conflicts with Policy CS3 of the Core Strategy (July 2014) (the CS), saved Policies H07 and PS10 of the City of Leicester Local Plan (January 2006) (the LP), the National Planning Policy Framework (July 2021) (the Framework) and the SPD in so far as these policies and guidance set out that

planning permission will be granted for new flats provided the proposal is satisfactory in respect of the creation of a satisfactory living environment.

Refuse and cycle storage

11. Upon the revised plan, the positions of intended storage facilities for cycles and refuse are set out. The full details of such facilities could be secured via condition should the appeal be successful. Without prejudice to my findings with respect to the first main issue above, on the basis that mechanisms could be put in place to ensure that future occupiers would have the opportunity to access the rear of the site on a continuous basis, I am satisfied that the intended storage facilities would be suitably accessible. The proposal accords with Policy CS3 of the CS and saved Policy H07 of the LP in so far as these policies set out that planning permission will be granted for new flats provided the proposal is satisfactory in respect of the arrangements for waste bin storage and car or cycle parking.

Parking

12. The revised plan illustrates that the proposal is based upon the retention of the hardstanding for the purposes of parking to the front of the site. Whilst a dropping of the highway kerb would be required to formalise such arrangements to the front of the site, I am content that the hardstanding offers the realistic potential to accommodate up to four parked vehicles. In addition, one additional residential parking space within the yard is proposed. Nevertheless, given the manner in which I experienced the yard to serve neighbouring commercial operations, there is significant doubt surrounding the realistic suitability and continual availability of this intended additional space.
13. Even so, the evidence before me indicates that the relevant adopted parking standard for a one-bedroomed flat is a maximum of one space and saved Policy AM12 of the LP indicates that reductions below specified standards may be appropriate in certain circumstances. These include in locations within 250 metres walking distance of good public transport. The site is situated in an inner-urban environment and near to various bus stops offering regular services. As a further note, I observed some on-street parking availability upon my inspection of the site's immediate surroundings.
14. In this instance, when noting the limited scale of new development proposed as well as the existence of the hardstanding which serves the building, I am content that acceptable parking opportunities would avail without the intended introduction of an additional residential space. For the avoidance of doubt, in the event the appeal be successful, a planning condition could be applied to attain the submission of a further revised plan to clarify parking arrangements in accordance with my reasoning related to this main issue. Thus, the proposal satisfactorily accords with saved Policy AM12 of the LP in so far as it sets out that reductions below maximum parking standards may be appropriate in certain circumstances.

Other Matters

15. I have noted objections/concerns raised by an interested party with respect to matters including the effect upon the availability of light. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.

16. The proposal would deliver an additional unit of housing in an urban/city location and the Framework reaffirms the Government's objective of significantly boosting the supply of homes. Nevertheless, a single additional unit would make a limited contribution.
17. It is unclear from the evidence before me whether a five-year supply of deliverable housing sites can currently be demonstrated by the Council. Nevertheless, even should a substantial shortfall in supply exist, I am satisfied that the harm I have identified in a future living conditions context would significantly and demonstrably outweigh the scheme's benefits when assessed against the Framework's policies taken as a whole. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

18. Whilst I have found that suitably accessible refuse and cycle storage facilities as well as acceptable parking opportunities would be provided, I have identified that harm would be caused to the living conditions of future occupiers of the development. This harm would be considerable and is the overriding consideration in this case.
19. For the reasons given above, the appeal is dismissed.

Andrew Smith

INSPECTOR