



Appeal Decision

Site visit made on 28 February 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2022

Appeal Ref: APP/W2465/W/21/3283203

Rear of 40-40a/40b Highbury Road, LEICESTER LE4 6FT

- 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 Sajjad Asaria against the decision of Leicester City Council.
 - The application Ref 20210751, dated 29 March 2021, was refused by notice dated 27 August 2021.
 - The development proposed is the construction of detached single storey building to form two houses in multiple occupation units (2x 2 bed) (6 persons) (Class C4).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area,
 - The effect of the proposal on highway and pedestrian safety.
 - The effect of the proposed scheme on the living conditions of existing occupiers of neighbouring properties with respect to privacy, and
 - The effect of the proposal on the living conditions of future occupiers, with particular regard to access to sunlight, daylight and outlook.

Reasons

Character and appearance

3. Highbury Road consists of residential development within a suburban setting. Housing is predominantly two-storey. These are a combination of detached and terraced housing with a largely consistent front building line. This arrangement clearly defines a perimeter block pattern of development and creates a clear delineation between public and private realm. Rear gardens of these properties have deep plots which are largely absent landscaping. A limited number of outbuildings are found within these gardens maintaining open views across them and a strong sense of spaciousness. The appeal site has a particularly large area of open land to its rear. Due to its open character, the site contributes to the local identified sense of spaciousness. The site therefore makes a positive contribution to the open character of the surrounding area.

4. The proposed development would consist of two connected properties, proposed to be used for multi-occupation. These would include kitchen, living and bathroom areas to enable them to be occupied in a manner independent of the existing properties on site. Although the proposal would be single-storey, with a relatively low-profile roof, it would occupy a large part of the rearmost part of the site. It would not specifically relate to the host building and therefore would not be subservient to the form of the main building.
5. The proposed building would also be a wide and comparatively bulky addition within the space. Therefore, the proposal would adversely affect the existing spaciousness of the site and erode the character of the area. Furthermore, a planning condition for details of external finish would not address the overall impact of the proposal and would not enable it to be successfully assimilated into the area.
6. The appellant's evidence demonstrates that development was previously approved for four garages on the site. These have since been demolished. However, the scale and overall visual impact on the surrounding gardens of these is not in evidence. Nonetheless, it seems that these would have been small scale and had a modest effect on the open character of the site and wider area. As such, I attribute only limited weight to this former development. In contrast, the proposed building would be a large structure that would not be characteristic of the size of outbuildings within the area. As such, the proposed development would be out of character with its surroundings and would harm the character and appearance of the area.
7. Accordingly, the proposed development would be contrary to policy CS03 of the Core Strategy (2014)(CS), saved policy PS10 of the City of Leicester Local Plan (2006)(LP) and the National Planning Policy Framework (the Framework) in regard to matters of character. These policies seek, among other matters, for development to contribute positively to the character and appearance of the built environment and be sympathetic with local character.

Highway issues

8. Highbury Road is a narrow through road. It has no parking restrictions and many properties include driveway parking, although a sizeable number of these require vehicles to mount the raised kerb to gain access. Although offering only a snap-shot in time the street was lightly parked during my visit in the middle of a weekday. However, considering the close-knit form of housing it seems likely that on street parking demand would be relatively high at peak times of the day. The appeal site has a footway crossing for one vehicle, the remaining area of hardstanding provides ad hoc parking for a further four or five vehicles depending on how closely these are parked. An absence of a footway crossing onto the parking area appears to be an established situation and is also relatively common within the street.
9. The layout plan shows that the proposed six parking would be shared between the existing flats and the proposed development. The frontage would also provide for a narrow pedestrian route to the rear of the plot. The proposal includes parking for four bicycles for each proposed dwelling. The application form does not differentiate between existing and proposed parking. This indicates that the number of parking spaces would not be increased but would be shared by more occupiers.

10. It is therefore unclear whether the proposal would generate new parking demand and whether this could be accommodated within the existing parking. Nonetheless, without contrary evidence, it seems likely that the proposal would place greater demand on the existing on plot parking provision. Moreover, whilst the appellant offers that the units would be likely to be attractive to non-car owners, no mechanism has been offered to secure this. The intensification of the frontage parking spaces, being within an uninterrupted row, would result in car parking manoeuvres along an extended section of the footway. These movements, without safe pedestrian refuge, would have an adverse impact on pedestrian safety. Such activity would therefore exacerbate the existing parking arrangement to the detriment of highway safety.
11. Consequently, the proposal would result in an unacceptable impact on highway safety with a development that would not function well. Accordingly, the proposal would conflict with policies CS14 and CS15 of the CS, policies AM01 and AM12 of the LP and the Framework. These policies seek, inter alia, for development to be accessible to all future users, ensure parking is of the highest design quality and to incorporate the needs of pedestrians.

Living conditions – existing

12. The proposal would locate development close to the boundaries of the site. It would include windowed elevations that serve habitable rooms that would overlook the shared boundaries. The proposal would be especially close to the rear boundary of 27 Gayton Avenue (no 27), although the dwelling itself is some distance from this boundary. The neighbouring dwelling has a large rear garden which includes substantial boundary trees and hedges. This screening, in combination with the existing boundary, single storey nature of the scheme and the separation distance, would prevent a loss of privacy for occupiers of no 27.
13. Furthermore, although there is no landscape screen towards the rear gardens of 22 and 38 Highbury Road, these neighbouring dwellings have outbuildings that would partially obscure the proposed development. Furthermore, these and neighbouring dwellings have long rear gardens with relatively high rear boundary fences. As such, the impact of the development on the privacy of occupiers of these neighbouring dwellings would also be limited.
14. The proposal would be accessed by a pedestrian alley that passes the front door of flat 40D and serves as the access route for three other flats. This would increase footfall and could cause disturbance to existing occupiers at anti-social times. However, the site is already in use for multi-occupation and new activity would be unlikely to significantly increase noise or disturbance levels. As a result, the proposal would be unlikely to affect living conditions of occupiers of the existing flats within the site.
15. As a result, the proposal would not materially affect the living conditions of existing occupiers of neighbouring properties with respect to privacy. Accordingly, with respect to the effect on neighbour's living conditions, the proposal would satisfy policy CS03 of the CS, policy PS10 of the LP, the National Planning Policy Framework (the Framework). These seek, among other matters, for development to consider the effects of privacy of existing residents and to create a high standard of amenity for existing users.

Living conditions – proposed

16. The proposed dwellings would be set away from the boundaries by a short distance. Outlook from these rooms, especially to the rear elevations, would be slightly compromised due to the proximity of the boundary fence and the existing and proposed landscaping. However, the majority of habitable rooms would be dual aspect, meaning that occupiers would not be reliant on an outlook from one aspect. As such, the proposal would provide a reasonable outlook for future occupiers.
17. The bedrooms of unit two and bedroom two and the kitchen of unit one would have north facing windows. This would limit access to direct sunlight for these rooms. Nevertheless, despite the proximity of landscaping and the boundaries, sufficient separation would exist to ensure adequate sunlight reaches these rooms. An amended plan has been offered by the appellant to reconfigure units one and two. However, it would not be necessary to omit the internal walls between both kitchens and living rooms to deliver daylight due to the distance of built form beyond the north boundary. Furthermore, it is noted that the affected rooms are dual aspect, and thus increase their overall access to sunlight. Equally, access to daylight within these rooms would be adequate.
18. As a result, the proposal would enable the creation of a suitable living environment for future occupiers. The proposal would therefore comply with policy CS03 of the CS, policy PS10 of the LP and the Framework, with respect to the effect of development on future living conditions. These policies seek, among other matters, for development to be well designed and to consider the effects of privacy and overshadowing on proposed occupiers.

Other Matters

19. The submitted appeals in evidence relate to development that is substantially different to that proposed by this appeal. Nevertheless, as I have not found harm to living conditions these appeals are of limited weight in my consideration of the issues affecting this proposal.
20. The Council's Residential Amenity Supplementary Planning Document (2008) provides guidance for separation distances, seeking 21 metres between two storey dwellings, but is silent with respect to single storey dwellings. Appendix G, with respect to two-storey extensions, requires a minimum distance between a principal room and a boundary of eleven metres. This guidance is therefore of no specific relevance with respect to this single-storey proposal.

Planning balance and Conclusion

21. The proposal would make efficient use of land within an accessible urban location. Furthermore, the design of the building would accord with the general style of development in the area. Nevertheless, these benefits would be of limited weight in favour of the proposal. The proposal would harm the character and appearance of the area and highway safety and would conflict with the development plan when taken as a whole. Therefore, for the reasons given, I conclude that the appeal should not succeed.

B Plenty

INSPECTOR