



Appeal Decision

Site visit made on 17 January 2023

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/W2465/W/22/3306568

Adjacent to 56 Vicarage Lane, Humberstone, Leicester LE5 1AE

- 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 Dr Deena Savjani against the decision of Leicester City Council.
 - The application Ref 20210654, dated 17 March 2021, was refused by notice dated 9 March 2022.
 - The development proposed is described as a 2-storey detached house plus loft under a cross-hipped roof. The building would have the following rooms/amenities: 5 bedrooms, living room, kitchen-dining area, 3 bathrooms, 1 cloakroom, utility room, seating room/office, and a double garage space. The proposal also includes a rear and front garden as well as a driveway with space for 2 vehicles.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Appendix 1 of the appellant appeal statement suggests that the side elevation bathroom window would be removed from the plans. Plans have been submitted by the appellant showing the window and there are no amended plans. The appeal is determined on the basis of the submitted plans.
3. The Council also refers to policy CS8 of the Core Strategy in their refusal reason. This policy relates to providing access to a local centre, public open space, play facilities, public transport, sport and active recreation facilities and other community and leisure facilities so is not relevant to biodiversity or any of the main issues of this appeal

Main Issues

4. The main issues in this case are the effects of the proposed development on:
 - the character and appearance of the area
 - the living conditions of the occupiers of the neighbouring residential properties with particular regard to outlook
 - biodiversity

Reasons

Character and appearance

5. Vicarage Lane has a mix of detached houses and bungalows that face onto the road. The built form is characterised by different designs including gable and hipped roofs, projecting bay windows and roof extensions.

6. The appeal site is on a prominent corner plot, on an elevated position and more modest in size than other plots along Vicarage Lane.
7. The boundaries to the highway are defined by a tall hedge, similar in character to other boundary planting on this side of Vicarage Lane. Opposite the appeal site is Monk Rest Gardens which is a Park with established trees and is different in character to the appeal site.
8. The application proposes a large, detached house with feature front gable, main hipped roof, and integral garage, with two car parking spaces in front. There would be a rear garden and some space to the front for planting.
9. The proposed house would face Vicarage Lane and would share a boundary with a large 2 storey house (number 56) which is unusual in this row because it faces Vicarage Lane side on. Number 56 is the first house of a row which are built up to or near to the pavement.
10. The houses lower down the hill are set back with front gardens. This relationship means that the rear elevation of 56 is prominent when travelling up Vicarage Lane which is on an incline. The rear windows of 56 provide an attractive façade which combined with its distance to the corner contributes to the spacious open character of the frontages of houses when viewed from the bottom of Vicarage Lane. The proposed house would sit slightly forward of the side elevation of number 56 close to Vicarage Lane, would obscure the existing views of the rear elevation of 56, and be built in close proximity to both side boundaries of the plot.
11. Although the design of the proposed side elevation of the appeal house, facing the road, includes three small secondary windows and chimney breast design details, these positive features are dwarfed by the combination of excessive depth, height and close proximity of the house to both roads, which is in stark contrast to the adjacent corner plot, which has a front garden and driveway to a house set back from the road.
12. Moreover, the scale and proximity of the development to the highway offers little potential for landscaping to reflect the existing verdant qualities of the neighbouring gardens. Therefore, overall, the proposal would be a prominent and incongruous intrusion to the surrounding area.
13. Consequently, I conclude that the scale and siting of the proposal would harm the character and appearance of the area.
14. I find that the scale and siting would result in a prominent addition to the street-scene which would not integrate with the existing pattern of development resulting in significant harm to the character and appearance of the area. As such, the development would be contrary to Policy CS3 of the Leicester City Local Development Framework Core Strategy (Core Strategy) adopted July 2014 and contrary to Paragraph 130 of the National Planning Policy Framework (the Framework). These policies, amongst other things, seek that development must respond positively to the surroundings, be appropriate to the local setting and context.

Living Conditions

15. Number 56 faces Vicarage Lane side on, which means its rear elevation windows, which serve habitable rooms, would face the side elevation of the proposed house which would be in close proximity to the shared boundary.
16. The rear habitable room windows of number 56 currently benefit from unrestricted outlook due to the prominent position of the house and the depth between it and the road junction. Although the overall height of the proposed house and ground floor level would be lower than number 56, this would not be sufficient to prevent both ground floor and first floor windows of number 56 from facing the side elevation and roof of the appeal house in close proximity. The proposed side elevation due to the combination of its excessive depth, height and in particular the close proximity would result in significant harm to the outlook for occupiers of number 56.
17. Indeed, the distance between windows described above, also do not meet the Councils minimum separation standards between walls without windows to principal rooms, and habitable room windows, as set out in appendix G of the Supplementary Planning Document Residential Amenity (SPD). These are minimum standards and both houses are, and would be large, detached properties in a row of similar high quality houses which predominantly exceed those minimum standards and where it might reasonably be expected that new development would do the same.
18. The appellant has brought to my attention other examples¹ of development which are stated do not meet the Councils separation standards in the SPD.
19. The examples given for development at Kincapple Road, Elm Tree Gardens and Burlington Road are, over 2 miles from the appeal site, in areas of different character and have a different orientation so have a different context to the appeal site.
20. The example at Lobbs Wood Close is near to the appeal site and I visited this and saw the relationship to the nearest house at Vicarage Lane. There was little separation but the orientation and different character of this house being at the end of a cul-de-sac of higher density development, is different to the relationship between the appeal site and number 56. I also have no evidence that the previous relationship between this plot at Lobbs Wood Close and nearest house on Vicarage Lane had any similarities to this case.
21. Having regard to these other examples, I found that they were not directly comparable to this appeal. I also note the appellant's comments about the merits of the design, positive relationship to houses at Lobbs Wood Close, rear garden depth and overall size, potential for landscaping to prevent overlooking, outlook and daylight available for habitable rooms and the appealing outlook from front elevation windows. Although in reaching my decision I have had regard to these other matters, they do not overcome the harm that I have identified above.
22. I conclude therefore, that the combination of the depth, height and in particular the close proximity of the proposed house to the habitable room windows of number 56 would harm the living conditions of the neighbouring occupiers.

APP/W2465/D/18/3208548 (Kincapple Road), 20192136 (Elm Tree Gardens), 20190882 (Lobbs Wood Close), 20121891 (Burlington Road)

As such the development would be contrary to Policy CS3 of the Core Strategy, saved Policy PS10 of The City of Leicester Local Plan (Local Plan) adopted January 2006, contrary to paragraph 130 of the Framework 2021 and the guidance within the SPD which seek to ensure amongst other things that development functions well, is fit for purpose and takes account of the amenity of residents with regard to overshadowing.

Biodiversity

23. The Officers report states that no information was provided about any likely impacts on protected species and habitats and neighbour comments also suggest there was no report. However, the appeal statement states that information was provided during the application, and this is not challenged by the Council. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued this matter further.
24. As such the development would accord with Policy CS17 of the Council Core Strategy, saved Policy PS10 of the Local Plan, and accords with paragraph 180 of the Framework 2021, which seek to ensure amongst other things that development maintains, enhances and/or strengthens connections for wildlife.

Other Matters

25. The appellant, in the Design and Access Statement has commented that the Council cannot demonstrate a five-year housing land supply, though there is no further evidence about this point, the extent of the shortfall or comment from the Council on the matter. In such circumstances where there is a shortfall, paragraph 11(d) of the Framework indicates that the policies which are most important for determining the application are out of date and that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. Whether there is a shortfall or not, the proposed development would provide an additional dwelling and given the scale of the proposed development, any social and economic benefits arising from it would be limited. Therefore, in this case, the significant adverse impacts of granting planning permission would significantly and demonstrably outweigh the limited benefits, when assessed against the policies in the Framework taken as a whole, including those seeking to boost the supply of homes and achieve well designed places. The proposed development does not therefore benefit from the presumption in favour of sustainable development.

Conclusion

27. Therefore, for the above reasons, I conclude that the appeal should be dismissed.

S Crossen

INSPECTOR