



Appeal Decision

Site visit made on 11 April 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th April 2023

Appeal Ref: APP/W2465/W/22/3311228

59 London Road, Leicester LE2 0PE

- 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 Parmar Estates Limited against the decision of Leicester City Council.
 - The application Ref 20220213, dated 27 January 2022, was refused by notice dated 17 May 2022.
 - The development proposed is regularisation of Dwellinghouse (host Planning Permission Ref: 20191807).
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Decision

1. The appeal is allowed and planning permission is granted for regularisation of dwellinghouse at 59 London Road, Leicester LE2 0PE in accordance with the terms of the application Ref 20220213, dated 27 January 2022, subject to the conditions listed at the end of this decision.

Preliminary Matters

2. As the site is located in a conservation area and falls within the setting of (a) listed building(s), I have had regard to the statutory duties set out under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. Additional plans¹ have been submitted at appeal stage. These relate purely to an intended programme of frontage improvements adjacent to London Road upon land falling under the appellant's control. As this programme of improvements is small-scale and does not materially alter the proposal before me when considered as a whole, I am content to consider the additional plans for information/determination purposes and am satisfied that no party with a potential interest in the outcome of the appeal is prejudiced by me doing so.

Background

4. The proposal that is before me follows a successful planning application² for multi-faceted development at 59 London Road, which included the construction of a two-storey dwelling to the rear. However, a building comprised of three flats over three floors (the building) has been constructed as opposed to a two-storey dwelling. The proposal is centred upon the retention of the building and its conversion to a dwellinghouse in conjunction with various alterations to include the reordering/replacement of windows and the repurposing of rooms.

¹ 21099-DSA-DR-A-001 and 21099-DSA-DR-A-002

² 20191807

Main Issues

5. The main issues are:

- Whether or not the proposed dwelling would preserve or enhance the character or appearance of the South Highfields Conservation Area (the CA);
- The effect of the proposed dwelling upon the living conditions of the occupiers of No 59b London Road, having particular regard to access to light and outlook.

Reasons

The CA

6. The significance and special interest of the CA is drawn, in part, from its historic grid layout, the high-density of its building stock, the existence of continuous and far-reaching building lines, and its variety of traditional materials and ornate architectural features.
7. The main body of the appeal site occupies a discreet position within the CA, being set to the rear of frontage development and back from the public highway. Indeed, available views of the building are limited and, where visible from Nelson Street, the building is seen against the backdrop of, and in the context of, development of scale. Despite incorporating three floor levels and covering a not insignificant width/footprint, the building is read and experienced as a subordinate addition to the rear of London Road-fronting development. Furthermore, planned alterations to the building's fenestration and to the specification of openings would promote sympathetic window proportions, well-balanced elevations, and thus development that would be suitably respectful of the historic environment within which the site is located.
8. For the above reasons, the proposed dwelling would preserve the character and appearance of the CA and would not cause harm to its heritage significance. The scheme accords with Policies CS03 and CS18 of the Leicester Core Strategy (July 2014) and the historic environment conservation and enhancement policies contained within the National Planning Policy Framework (July 2021) (the Framework) in so far as these policies promote good quality design and the protection of the historic environment.

Living conditions

9. The building is situated such that it is located to the rear of a House in Multiple Occupation (HMO) (No 59b), which comprises first and second floor level floorspace. The HMO is served by rear-facing windows that, where applicable, provide outlook for occupiers and light to habitable rooms. The building is situated at a slightly oblique angle relative to the southwestern direction that the neighbouring HMO windows face.
10. In my assessment, noting the above-ground positions of neighbouring habitable room windows, the separation distances that apply, and the inevitability of some restrictions to available outlook and light being at play within a tight inner-urban environment, I cannot find that the proposed dwelling would be experienced as unacceptably overbearing nor causative of any undue loss of light for neighbouring occupiers. Whilst not determinative to

the outcome of this main issue, my findings have been corroborated by the submissions of existing HMO occupiers.

11. For the above reasons, the proposed dwelling, having particular regard to access to light and outlook, would have an acceptable effect upon the living conditions of the occupiers of No 59b London Road. The scheme accords with saved Policy PS10 of the City of Leicester Local Plan (January 2006) and the Framework in so far as these policies require the amenity of existing residents to be taken into account in decision-making.

Other Matters

12. 55 and 57 London Road is Grade II Listed and dates to the 1930s. It is comprised of a parade of shops with offices above and is designed in the art-deco style. Its significance and special interest as a designated heritage asset is drawn, in-part, from its prominence in the street scene, its architectural form, and its relevance to the historic evolution of the area. Given its subordinate scale and discreet positioning, the proposed dwelling would not cause harm to this neighbouring listed building's significance or special interest as a result of being situated within its setting.
13. The proposal accords with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conditions

14. The Council has suggested conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have made amendments for consistency and clarity purposes. I have also added a condition specifying the approved plans in the interests of certainty.
15. In the interests of preserving or enhancing the character or appearance of the CA, I have added further conditions requiring external-facing materials to be used as specified and the implementation prior to occupation of intended alterations to the building and frontage improvement works. For the avoidance of doubt, I see no merit in any suggestion that the introduction of a bench to the front of the site would be likely to cause conflict between cyclists and pedestrians.
16. A condition requiring the implementation of an insulation scheme is reasonable and necessary in the interests of safeguarding the living conditions of future occupiers of the development. As the proposal is centred upon the building (as reflected in the scheme's red line), I have not included provisions related to the adjacent HMO. In the interests of safeguarding living conditions and the general amenities of the area, a condition requiring full details of arrangements for the storage and collection of waste is also reasonable to impose.
17. In the interests of preserving the character or appearance of the CA and the living conditions of neighbouring occupiers, and in recognition of the tight urban environment where the site is located, a condition withdrawing various householder permitted development rights is reasonable and necessary to impose. For the avoidance of doubt, given the building's existence, a condition to dictate a timeframe for the commencement of works is not necessary.

Conclusion

18. For the above reasons, the appeal is allowed and planning permission is granted subject to the conditions below.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be implemented in full accordance with the following approved plans: DSA-21099-PL-PRO-09-A; DSA-21099-PL-PRO-01-C; DSA-21099-PL-PRO-02-C; DSA-21099-PL-PRO-03-C; DSA-21099-PL-PRO-04-C; DSA-21099-PL-PRO-05-B; DSA-21099-PL-PRO-06-B; DSA-21099-PL-PRO-07-B; DSA-21099-PL-PRO-08-C; DSA-21099-PL-PRO-10-A; DSA-21099-PL-PRO-12-A; 21099-DSA-DR-A-002.
- 2) The development hereby permitted shall be constructed in full accordance with the external-facing materials listed and specified upon the following approved plans: DSA-21099-PL-PRO-01-C; DSA-21099-PL-PRO-02-C; DSA-21099-PL-PRO-03-C; DSA-21099-PL-PRO-04-C; 21099-DSA-DR-A-002.
- 3) Prior to the first occupation of the dwellinghouse hereby permitted, an insulation scheme to prevent the transmission of noise both internally and externally shall be carried out in full accordance with details to have first been submitted to and agreed in writing by the local planning authority. The insulation scheme, to include ventilation arrangements and to be retained as implemented, shall be dictated by an acoustic survey to be undertaken to assess existing ambient noise levels (including noise from neighbouring food and drink and late night uses and from vehicular activity on London Road) and anticipated levels of noise from the ground floor café/restaurant use and ventilation flue permitted at 59 London Road under reference 20191807.
- 4) Prior to the first occupation of the dwellinghouse hereby permitted, arrangements for the collection and disposal of refuse shall be submitted to and approved in writing by the local planning authority. The approved arrangements shall be in place upon commencement of the dwellinghouse use hereby permitted and retained as such thereafter.
- 5) Prior to the first occupation of the dwellinghouse hereby permitted, all alterations to the building listed at paragraph 2.8 of the Full Statement of Case (November 2022) as depicted upon the approved plans and the programme of frontage improvement works as depicted upon approved plan 21099-DSA-DR-A-002 shall be implemented in full and retained thereafter. Any plants which within a period of 5 years from the first occupation of the dwellinghouse, die, are removed, uprooted, or become significantly damaged, shall be replaced during the next planting season.
- 6) Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no alteration or extension to the rear or sides of the dwellinghouse, no extension or alteration to its roof, and no outbuildings within its curtilage, as permitted by Classes A, B, C or E of Part 1 of Schedule 2 of the Order, shall be carried out without separate express planning permission having first been obtained.

-----END OF SCHEDULE-----