



Appeal Decision

Site visit made on 4 April 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Appeal Ref: APP/X2410/W/22/3305884

15A & 15B High Street, Sileby LE12 7RX

- 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 Kanti Ganesh against Charnwood Borough Council.
 - The application, Ref P/22/0008/2, is dated 5 January 2022.
 - The development proposed is change of use to existing workshop; conversion and extension to existing to form 2no. flats.
-

Decision

1. The appeal is dismissed and planning permission for change of use to existing workshop; conversion and extension to existing to form 2 no. flats, is refused.

Preliminary Matters

2. The Council did not issue a decision on the appeal within the prescribed time limit or within an agreed extension of time. The Council's putative reasons for refusal are set out in its statement of case, which form the basis of the main issues of the appeal below.

Main Issues

3. The main issues are:
 - a) The effect of the proposal on highway safety, having regard to the suitability of access and egress from the site and whether the proposal would provide adequate parking and cycle storage facilities, and;
 - b) Whether prospective occupants of the development would enjoy a suitable standard of accommodation, in particular with respect to noise from adjoining premises.

Reasons

Highway Safety & Parking

4. The appeal site is located within an enclosed courtyard accessed through a passage between two commercial units on High Street. The courtyard contains workshop/storage areas towards the rear and access to backland dwellings at 23 and 25 High Street. There is also access to upper floor flats and an office.
 5. The Council's concern is underpinned by a lack of detail pertaining to trip generation, the width of the access and visibility splays onto High Street. The appellant does not propose any change to the existing access, which from what I saw would not be possible in any event given the passage is tightly framed by the walls of separate buildings on either side.
-

6. The appellant also states that no parking exists or is being proposed, and I accept that the access already exists and is capable of use by vehicular traffic, though I have no details of the number of trips made on a daily basis. However, there is no mechanism proposed that would prevent vehicular access into the courtyard or on-site parking from occurring in relation to the proposed residential use. Moreover, the nature of the uses within the courtyard suggests that the level of vehicular traffic is quite low and irregular. The addition of two flats would be likely to generate more regular use of the access as residents come and go for work and other trips. There would also be the potential for additional trips by delivery drivers and visitors. Thus, it is necessary to consider the implications of this additional vehicular traffic in terms of highway safety.
7. Leicestershire County Council (LCC) as the local highway authority points to the access being substandard in terms of width and visibility splays when assessed against the Leicestershire Highway Design Guide (LHDG). I saw the access to be quite narrow, only capable of passage by a single car or small van at one time. At the entrance, the position of the walls to either side means that drivers exiting the site would have to edge out to see oncoming traffic but would do so with no sight of oncoming pedestrians until the front of the vehicle was well out over the footway. The access is also close to a signalled pedestrian crossing which I saw causes queueing of traffic in front of the entrance. These conditions would increase the risk of conflict between vehicles and pedestrians and impede the free flow of traffic should a vehicle attempting to turn right into the site be forced to wait for queueing traffic to move on.
8. I also note that the LHDG standard for dwellings of less than 3 bedrooms is to provide a minimum of two parking spaces. LCC acknowledges that the site is accessible to a number of local amenities on foot, including a primary school and local shops, is within 100 metres of bus stops served by regular routes between Leicester and Loughborough and is also walking distance from Sileby train station. The Council, whilst pointing to a lack of detail regarding off-street parking, also states that if none is to be provided, it would seek provision of on-site cycle storage facilities to encourage sustainable modes of transport.
9. The plans before me do not show any on-site parking spaces but show two small areas around the entrances to each flat which would be enclosed by fencing to provide safe bicycle storage. The LHDG standards indicate cycle parking is required at a ratio of 1 space per 5 dwellings. The enclosed spaces shown are capable of accommodating one cycle each. Precise details of this could be secured by way of a planning condition were the appeal to be allowed.
10. In summary, I have concerns that use of what is a substandard access would intensify as a result of the proposal. Without further evidence to demonstrate that this would not be the case, or to otherwise show that access and egress could be safely achieved, I am not persuaded that the proposal would safeguard highway and pedestrian safety. Although the high levels of accessibility to local services and public transport on foot or cycle may reduce the future level of demand for parking, there is no mechanism before me which would ensure that the potential risks to highway safety posed by increased use of the existing access for on-site parking would be adequately mitigated. As such, these considerations are not sufficient to overcome the harm identified.
11. Therefore, for the reasons set out, I find on this issue that there would be conflict with Policy TR18 of the Local Plan 1991-2006 (2004) which sets out

that permission will not be granted for development unless off-street parking for vehicles, including cycles, and servicing arrangements are included to secure highway safety and minimise harm to visual and local amenities.

12. In addition, there would be conflict with the National Planning Policy Framework (the Framework) which sets out that development should ensure safe and suitable access to the site can be achieved for all users, and development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Standard of Accommodation

13. The Council, at paragraph 9.40 of its statement of case, states that sound insulation to the party wall may be necessary to protect the living conditions of adjacent occupants, reflecting comments of its environmental health team. In the absence of details of sound insulation, the Council cites conflict with Policy CS2 of the Charnwood Local Plan Core Strategy (November 2015) (the CS).
14. However, the putative reason for refusal at paragraph 9.60 conversely states that 'the applicant has failed to demonstrate that the amenities of *future occupiers* would be safeguarded *from noise from adjoining premises* through adequate acoustic isolation from the neighbouring properties' (my emphasis). It is therefore unclear whether the Council's concern lies in protecting prospective residents of the flats from noise from surrounding uses, or whether those surrounding uses need to be protected from noise that would be generated by the proposed residential use of the flats.
15. Irrespective of which position the Council is actually taking, I have no substantive evidence of a clear risk to either future occupants of the flats or existing neighbours from the proposed change of use. The existing building is used as a storage area, generating limited levels of activity and noise. Residential use is generally quieter than other land uses such as commercial, industrial or community use, and there is nothing before me to suggest the use of the building as two small flats would give rise to particularly high levels of noise that would disturb neighbouring occupants.
16. Equally, if it is in fact the future occupants for whom the Council has concern, I saw little evidence of noisy activity in the surroundings that would be likely to lead to demonstrable levels of disturbance and harm to living conditions. There was some low level storage taking place within the courtyard, but no signs of noisy activity that may be intrusive to future occupants. Indeed, there are a number of residential units nearby, including Nos 23 and 25, and units above Nos 3-7. The experience of future occupants would be no worse than that of existing occupants of these units.
17. Moreover, although no details of sound insulation have been provided, the existing building appeared solid in its construction internally with thick brick walls that would have some attenuating effect in terms of noise transfer. Additional materials would need to be added to the walls and floors for heat insulation and decoration to create habitable spaces, which would have a further effect. The works generally also would be subject to the requirements of Part E of the Building Regulations in terms of the passage of sound.
18. Given these considerations, I am satisfied that the proposal is capable of achieving a satisfactory standard of accommodation for future occupants and

preserving the living conditions of neighbouring occupants, in respect of noise, in accordance with Policy CS2 of the CS.

Other Matters

19. The Council raised no objection in respect of the design of the extension and its effect on the character and appearance of the area, the settings of the nearest listed building at 10 High Street or on the heritage significance of the Sileby Conservation Area. The extension would replicate the red brick exterior of the existing building and the design of the existing windows. The flat roof shape would not appear inconsistent with the functional aesthetic that pervades this backland area of High Street traditionally associated with commercial and industrial activities. The position of the development to the rear would not affect the setting of the listed building at No 10. Therefore, I am satisfied that the proposal would preserve the character and appearance of the area and the significance of the aforementioned designated heritage assets.
20. No objection was raised in terms of biodiversity or the size and form of the flats. On the evidence before me, I have no reasons to conclude otherwise.

Planning Balance and Conclusion

21. The Council acknowledges that it is unable to demonstrate a five year supply of deliverable housing sites, with supply stated to stand at 3.04 years. Therefore, pursuant to paragraph 11(d) of the Framework, the presumption in favour of sustainable development is engaged.
22. The proposal would deliver benefits in terms of delivery of two dwellings in an accessible location at a time when the Council cannot demonstrate a sufficient supply of deliverable housing sites, a benefit weighing strongly in favour of the proposal in the circumstances. There would also be minor benefits in terms of the economic activity generated in the construction of the flats and subsequently by occupants engaging with local businesses.
23. Set against this, I have found that the proposal fails to demonstrate that it would provide safe access and egress from the site that would safeguard highway and pedestrian safety, contrary to the development plan and the guidance of the Framework. I afford significant weight to this conflict.
24. The benefits of the proposal, taken together, are considerable. However, in providing new housing, the development would simultaneously introduce increased risk to highway safety. Overall, in the context of paragraph 11, the adverse impacts associated with granting planning permission would significantly and demonstrably outweigh the benefits, when considered against the policies of the Framework, taken as a whole.
25. Consequently, the Framework, as a material consideration, does not indicate that permission should be forthcoming, and there are no other material considerations that would justify a decision being made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed and planning permission refused.

K Savage

INSPECTOR