



Appeal Decision

Site visit made on 12 September 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/W2465/W/23/3320243

Annex, 47 Sextant Road, Leicester LE5 2JB

- 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 Tariq Majid against the decision of Leicester City Council.
 - The application Ref 20220900, dated 7 November 2022, was refused by notice dated 6 March 2023.
 - The development proposed is described as "retrospective application for change of use from detached annex at rear of the house to one bungalow (1 x 1 bed) and a retention conservatory (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, an application has been made seeking a certificate of lawfulness in relation to the use of the building subject of this appeal as a separate dwelling. It is not my duty in respect of this appeal to decide on the lawful use of the building and so this separate application has no influence on my assessment.
3. The conservatory has been erected. Also, the submissions indicate the subject building has been rented out and already used as a separate dwelling. In these regards the development has commenced.
4. There are 2 site access plans before me, one numbered PL47 A102 revision B and the other numbered PL47 A105 revision A. The A102 drawing shows 3 parking spaces to the front of 45 Sextant Road (No 45) and a single parking space to the rear of 45 and 47 Sextant Road (No 47). Drawing numbered PL47 A105 revision A shows 4 spaces together on the land to the rear of No 45. The revision dates on the plans suggests the drawing A105 supersedes A102. Also, the officer's report on the planning application indicates the Council's decision is based on the A105 drawing. My assessment is based on the same plan. The parking spaces as shown on this drawing had not been provided at the time of my site visit.

Main Issues

5. The main issues are (i) whether a safe and suitable vehicular access is provided to serve the development (ii) the effect on the living conditions of occupiers of No 45 with regard to noise, light intrusion and privacy, and (iii) the effect of the change of use on the character and appearance of the area.

Reasons

Access

6. Access to and from the subject building is via a driveway that runs between Nos 45 and 47. This is a narrow gap so it is unlikely that a car and a pedestrian would be able to safely pass each other. Also, the main entrance doors to both of the flats within No 45 are directly off the drive. People leaving the flats would need to step straight out onto the drive with limited visibility to either side. In doing so there is a risk of pedestrians walking out in front of a car moving to or from the rear parking. As such, the access is hazardous.
7. The appellant suggests the development has not resulted in extra trips. However, it is fair to expect an additional household residing at the site would lead to more trips as opposed to a situation where the annex is used for purposes incidental to the enjoyment of No 47. Moreover, there is parking to the front of Nos 45 and 47 and so currently there is no need for vehicles to park at the rear. It is likely the proposed rear parking spaces would generate extra car movements on the drive and so increase the risk of vehicles coming into conflict with pedestrians.
8. For these reasons, I conclude a safe and suitable access is not provided to serve the development. In these regards, it conflicts with paragraph 110(b) of the National Planning Policy Framework.

Living conditions

9. No 45's side wall includes ground and first floor windows. Given the proximity and narrowness of the drive, noise from vehicles moving to and from the rear parking is bound to be heard from inside the flats, particularly when the windows are open. This would cause a disturbance to the occupiers of No 45.
10. I am advised the subject building has been occupied for a while yet there has been no complaint raised by those living at No 45 over noise disturbance. However, I am uncertain whether the occupiers of the building have been parking to the rear of No 45 as shown on the appeal plans as there is no laid out parking space or turning area. Consequently, the absence of any complaints fails to convincingly demonstrate car movements along the drive would avoid unacceptable noise to neighbouring residents.
11. Vehicles using the drive would avoid unacceptable light intrusion as headlights would not shine directly towards No 45's side windows. Also, I anticipate no significant loss of privacy as pedestrians would be passing the ground floor windows rather than congregating outside No 45. However, acceptability in these regards does not address the concerns on noise disturbance.
12. For these reasons, I conclude car movements associated with the development would unacceptably harm the living conditions of the occupants of No 45 in respect of noise. As such, the development does not accord with saved policy PS10 of the City of Leicester Local Plan. This looks to ensure that noise effects are considered so as to provide acceptable living conditions.

Character and appearance

13. The site is in a residential suburb where most dwellings face onto and are seen from the road. The residence subject of this appeal is at odds with this

prevalent pattern as it is on a backland site behind No 47. However, apart from the conservatory, there is no indication that the erection of the subject building is unauthorised. As such, most of the building would remain even if the appeal were dismissed. The appearance and character of the site would remain the same regardless as to whether it is used as a self-contained dwelling or annex to No 47. Also, 51 Sextant Road is an existing dwelling that adjoins the site and is behind 49 Sextant Road. Therefore, the use of the appeal building as a separate dwelling would not be entirely unusual to the layout of development in the area.

14. I have no details of the proposal for a building to the rear of 50 Sextant Road that was recently refused planning permission by the Council. As such, I am uncertain whether it is similar to the appeal scheme and so it has no influence on my assessment.
15. Given the particular circumstances of this case, I conclude the development avoids harm to the character and appearance of the area. In these regards it accords with CS policy 8 from the Leicester Core Strategy 2014. This seeks to ensure that new housing in the suburbs maintains the qualities of the area and is compatible with the locality.

Other Matters

16. Dismissing the appeal may put at risk the occupation of the appeal building by its current residents. This would represent an interference with their rights under Article 8 of the European Convention on Human Rights (right to respect for private and family life) as incorporated by the Human Rights Act 1998. However, these rights are not unfettered and can be interfered with by a public authority in accordance with law in a number of circumstances.
17. In this case, there is a legitimate and established planning policy aim to ensure a safe and suitable access is provided and that the development does not harm the living conditions of other residences. Such policies are necessary for the protection of health. No case has been made that the personal circumstances of the existing occupants require them to remain at the appeal building. As such, I attach greater weight to the public interest. Dismissal of the appeal is proportionate and so it would not result in a violation of the residents' human rights.

Conclusion

18. The development causes no light intrusion or loss of privacy to No 45. Also, it has an acceptable effect on the area's character and appearance. However, the development is not served by a safe and suitable access and through associated car movements it would cause noise disturbance to the detriment of the living conditions at No 45. The scheme is contrary to the development plan policies when read as a whole. There is no justification to determine the appeal other than in accordance with the development plan. As such, I dismiss the appeal.

Jonathan Edwards

INSPECTOR