



Appeal Decision

Site visit made on 17 October 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2023

Appeal Ref: APP/W2465/W/23/3321684

25 Guthridge Crescent, Leicester City, Leicester LE3 1JL

- 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 Danyal Abubaker of AQSA Investments Ltd against the decision of Leicester City Council.
 - The application Ref 20230019, dated 30 January 2023, was refused by notice dated 22 February 2023.
 - The development proposed is described as "demolition of buildings at side; alterations and installation of ventilation flue; construction of two-storey side extension and front and rear dormers; extension of raised terrace at rear, change of use of part ground floor from storage to residential; formation of four self-contained flats (Class C3)"
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the appellants Statement of Case reference is made to the proposal as a House of Multiple Occupation. The application form states the proposal is for four self-contained flats (Class C3). I have therefore determined the appeal on this basis.
3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in September 2023, replacing the version published 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

4. The main issues are:
 - i) the effect of the proposed development upon the character and appearance of the streetscene;
 - ii) the effect on the living conditions of the future occupiers of the proposed flats, with particular regard to internal space standards and the provision of storage;
 - iii) the effect on the living conditions of the future occupiers of the proposed flats, with particular regard to noise; and
 - iv) the effect on highway safety and local traffic conditions with particular regard to provision for parking.

Reasons

Character and appearance

5. The appeal site comprises a two-storey semi-detached property set within an irregular shaped parcel of land, which occupies a corner location at the junction of Guthridge Crescent with Imperial Avenue. The existing building comprises a ground floor hot food take-away and a first floor flat. A high brick wall, punctuated with openings, is present to the south of the existing building, forming the front boundary. The existing property is positioned on a spacious corner plot, set back from the edge of the pavement and behind a deep area of hardstanding. Accordingly, the appeal site contributes to the spacious character of the wider streetscene. Ground levels on Imperial Avenue gently rise up towards the junction with Guthridge Crescent, whereby the appeal site is positioned slightly higher than the neighbouring property at No.63 Imperial Avenue. Although predominantly a residential area, in the immediate vicinity of the appeal site, there are several commercial premises within the Guthridge Crescent Local Centre, including a restaurant and convenience stores. Properties are generally two-storey in height; the character of which vary, and include hip and gable roof arrangements and a mix of brick and render to their external elevations.
6. The proposal would occupy the majority of the width of the appeal site, with the extension being almost the same width as the existing building. The proposal would include a modest set back from the front edge of the property and the ridgeline of the proposed roof would sit slightly lower than that of the existing roofline. Given the disproportionate width of the proposed extension I do not consider these design elements go sufficiently far enough for the extension to be viewed as a subordinate addition to the host property. The Leicester City Council Residential Supplementary Planning Document 2008 (SPD) requires a setback of 1m for side extensions. The proposal would be contrary to the SPD. Whilst this guidance does not directly relate to the scheme before me, as this part of the SPD is tailored to house extensions, its principles could reasonably be applied to extensions to other forms of residential developments including flats. Nevertheless, I afford limited weight to the conflict with the SPD in the determination of this appeal.
7. As the proposed extension would occupy the majority of the width of the appeal site this would result in an awkward roof arrangement and discordant flank elevation. The juxtaposition of the design, bulk, scale and massing of the proposal with the existing property would result in a discordant addition to the street scene. The proposed development would not sit comfortably within the streetscene at this prominent corner position and would therefore detract from the character and appearance of the area.
8. I did not observe dormer windows within the locality. However, from the limited evidence before me, permission has been granted at Nos. 19-21 Guthridge Crescent, within close proximity to the appeal site, for development that includes front and rear dormer windows. The pitched roof design, width and scale is such that the proposed front elevation dormer window would be in proportion with the existing roof slope and the building as a whole. The scale and positioning of the proposed front dormer would be proportionate to, and align with, the windows to the front facing ground and first floor of the building. Use of consistent materials between the dormers and the main roof would

further reduce the visual impact of the additions and could be secured by condition were the appeal to be allowed. As such the dormer window would not appear unduly prominent or incongruous in the streetscene. However, the neutral impact of the proposed dormer window would not outweigh the harms identified with the overall design, bulk and mass of the proposal.

9. The proposal would reduce the gap between properties in a similar manner to other developments within the locality, namely Nos. 19-21 Guthridge Crescent. However, the property has been extended with chamfered front and side elevations at single storey only, and in my view does not have the same visual impact as the appeal scheme before me.
10. Whilst I note the proposed extension would re-locate the flue to serve the takeaway to a more discrete location, the harms identified above, do not outweigh this modest benefit.
11. For the above reasons, I conclude that the proposal would have a harmful effect upon the character and appearance on the streetscene. Accordingly, I find conflict with Policy CS03 of the Leicester Core Strategy 2014 (CS) which requires developments to be visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment. The proposal would also conflict with Paragraph 130 of the Framework which seeks to ensure that development is sympathetic to local character and adds to the overall quality of the area.

Living Conditions – space standards

12. The NDSS sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage, and floor to ceiling heights. The guidelines can be useful to determine whether the proposal would offer an acceptable level of internal space for future occupiers. However, in the absence of a development plan policy requiring compliance with the NDSS, only limited weight is given to these in the determination of this appeal.
13. The appellant states that Flats 1-3 are 1-bed, 1 person occupancy, as set out in the Floorspace Schedule. However, the Council has considered Flats 1-3 as providing 1-bed, 2-person accommodation on the basis that the floor space of the proposed bedroom would qualify as providing two-bedspaces, as this reflects the guidance in the NDSS.
14. Based on the plans submitted the proposed bedrooms are of a sufficient size to provide accommodation for two-persons. Accordingly, I have considered the appeal on the basis of 1-bed, 2-person occupancy for Flats 1-3.
15. In respect of Flats 1-3 the floor space of the accommodation would fall significantly short of the NDSS guidelines. Whilst acknowledging that in this circumstance the NDSS are guidelines only, the shortfall is significant. Consequently, the extent of the shortfall to each flat would result in poor living conditions for future occupiers. In addition, owing to this shortfall in floorspace, I am not satisfied that Flat 2 could satisfactorily accommodate dedicated storage.
16. Flat 4 would be located in the roof space of the property and would provide satisfactory floorspace for a 1-bed, 2-person occupancy. However, based on the evidence before me, only 65% of the flat would be provided with a floor to

ceiling height in excess of 2.3m. Whilst the inclusion of the dormer windows would provide for light and outlook, a large proportion of the accommodation, in particular the living room, would not be provided with a floor to ceiling height of 2.3m. I am of the view that this shortfall in height across the accommodation would restrict the functional space, resulting in poor living conditions for future occupiers. Although no dedicated storage space is shown on the submitted plans for Flat 4, I am satisfied that an appropriate level of dedicated storage could be accommodated within the floorspace provision.

17. For the reasons stated above, I am not satisfied that the future occupiers of the proposed flats would be provided with acceptable living conditions with regards to internal space standards and storage. Accordingly, I find conflict with Policy CS03 of the CS and Policy H07 of the Leicester City Local Plan 2006 (LP) which collectively seek to ensure, amongst other matters, the provision of appropriate space and amenity standards. I also find conflict with the Framework where it seeks to create places with a high standard of amenity for future users.

Living conditions – Noise

18. The appeal site is positioned within an established residential area, set back from the highway by a deep pavement. In addition, the appeal site is positioned a reasonable distance from the main road. Whilst a snapshot of time, I did not observe road traffic noise to be significant. Furthermore, I have not been presented with any evidence to suggest that road traffic noise is causing harm to the living conditions of the existing flat at the appeal site, or existing residents in the immediate vicinity of the site. I therefore do not concur that the proposed flats would be adversely affected by road traffic noise.
19. The existing hot food take-away would remain at ground floor and the proposed flats would be adjoining this existing commercial use. From the evidence before me the take-away can operate until 23.00hrs each night.
20. In terms of vertical stacking, the bedroom to Flat 2 would be located above the ground floor takeaway premises, and below the living room to Flat 4. This overlap in the vertical arrangements could result in disturbance to the future occupiers of the flats, with the potential for noise transfer from the cooking equipment used in the commercial premises, voices, music or a television for example.
21. In the absence of an acoustic report to assess the potential impact from noise arising from the stacking, and to identify any required sound mitigation, I cannot be satisfied that the living conditions of the future occupiers of the flats would not be adversely affected by way of noise.
22. The appellant has indicated that they would be agreeable to a condition for the submission of an acoustic survey prior to occupation of the flats to resolve this. However, from the evidence before me I cannot be certain that any mitigation that may be required could be provided for without reconfiguration of the layout of the proposal. Such a condition would not be reasonable and therefore not meet the Framework tests and guidance in the Planning Practice Guidance.
23. Sound insulation, to be provided in accordance with building regulations, could be dealt with by condition. However, there is no substantive evidence before

me that demonstrates this suggested measure would adequately mitigate against the noise concerns raised in relation to stacking.

24. For the reasons outlined above, I am satisfied that road traffic noise would not have a detrimental impact upon the living conditions of the occupiers of the flats. However, with regards to the layout of the proposed development I cannot be satisfied that the proposal would provide for satisfactory living conditions for the future occupiers of the proposed flats, with particular regard to noise. Accordingly, I find conflict with Policy CS03 of the CS and Policies H07 and PS11 of the LP. I also find conflict with the Framework where it seeks a high standard of amenity for existing users and requires development to mitigate and reduce to a minimum potential adverse impact resulting from noise.

Highway safety - Parking

25. The current property does not benefit from off-road parking. I have not been provided with evidence that parking is at saturation in the vicinity of the site or the propensity of road traffic accidents. Whilst I appreciate that it is only a snapshot of time, I observed that Guthridge Road is of a width which accommodates parking, with no parking restrictions and that there was capacity to accommodate additional vehicles.
26. Whilst no off-street parking is proposed to serve the proposed development, having regard to the parking conditions in the locality of the appeal site and the relatively limited scale of the development proposed, I consider the likely parking demand associated with the proposed flats could be accommodated on the road and those nearby.
27. In addition, from the evidence before me, and as observed at my site visit, the site is located within a local centre where a range of services to meet day-to-day needs are within walking distance. I also observed a bus stop a short distance from the appeal site and consider the site to be well-located, and accessible by, alternative modes of transport. I also note that bicycle storage is proposed to the rear of the site.
28. Further to the above, and having regard to paragraph 111 of the Framework, I do not find that the proposed development would be unacceptable or have a severe impact on highway safety.
29. Accordingly, the proposal would not have a harmful effect on highway safety with particular regard to parking. I find no conflict with Policies AM01 and AM02 of the LP. These policies resist development that would have an unacceptable impact on highway safety, including in relation to parking arrangements. Nor do I find conflict with the Framework in this regard.

Other Matters

30. The appellant refers to CS Policies CS06 and CS08, stating that they are supportive of development on the Braunstone Estate and the retention of the ground floor non-residential unit within the Local Centre would be in accordance with Policy CS11 of the CS. The Council do not dispute this and based on the evidence before me I have no reason to disagree.
31. The proposal would make efficient use of the land. The proposed development would make a positive contribution to housing supply and mix of property

types. I also acknowledge that the Framework is supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly.

32. The proposal would bring economic benefits through the construction process and the spend of future occupiers of the flats, including payment of Council tax. As the ground floor commercial business currently exists there would be little or no change to business rates and I therefore afford this limited weight. Given the scale of the proposed development these benefits would be modest and would not outweigh the harm I have identified.
33. My attention has been drawn to other developments approved within the locality¹. From the limited information available to me, I do not consider these developments to be comparable. The respective sites are located a reasonable distance from the appeal site and therefore they do not form part of the immediate site context. Each inevitably has design considerations and a surrounding context specific to it, rather than to the appeal site. Furthermore, the design of the schemes differ significantly. Accordingly, these decisions do not lead me to a different conclusion of the main issues in this appeal. In any event, I have assessed the appeal on its own merits.

Planning Balance

34. The Council acknowledge that they do not have a 5-year housing land supply. By virtue of this absence paragraph 11 d ii) of the Framework is engaged. Notwithstanding the benefits identified above they do not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Conclusion

35. For the reasons outlined above, the appeal is dismissed.

R Gee

INSPECTOR

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