



Appeal Decision

Site visit made on 6 February 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Appeal Ref: APP/W2465/W/23/3330402

339 Saffron Lane, Leicester LE2 6UE

- 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 Ms Gurbax Kaur Claire against the decision of Leicester City Council.
 - The application Ref 20230886, dated 13 May 2023, was refused by notice dated 10 July 2023.
 - The development proposed is change of use from house in multiple occupation (6 Beds) to five self-contained flats (1x 5 Bed) (Class C3); construction of dormer extensions at front and rear; single and two storey extension at rear; alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In December 2023 a revised National Planning Policy Framework (the Framework) was published. However, in respect of the main issues for consideration in this appeal, the revised Framework has not changed Government Policy and so the cases for the appeal parties have not been prejudiced. I shall consider the appeal accordingly. In respect of the paragraphs submitted that are no longer correct, I have considered the most relevant paragraph in the current Framework.

Main Issues

3. The main issues are:
 - whether the proposal would provide adequate living conditions for future occupiers with particular regard to internal space, outlook, daylight and privacy; and
 - the effect on the living conditions of the occupiers of 337 Saffron Lane and the bedsit above 112 Grace Road with particular regard to outlook.

Reasons

Living conditions for future occupiers

4. The appeal building is a two-storey terraced house which is currently in use as a HMO, the surrounding area is a mix of residential and commercial. The proposal seeks to create five self-contained flats which would be set over three floors. The proposed flats would meet Nationally Described Space Standards.
5. Flat 1 would be located on the ground floor, towards the front of the appeal building. The front of the flat is served by a large bay window which gives good

- daylight and outlook for the bedroom. However, the internal layout, due to its small size would be cramped. In particular, it would have a kitchen/living area which would be small and provide very little space to differentiate between these two uses.
6. The kitchen/living area would be served by a single window which would overlook the amenity space to the rear. However, due to the outrigger within the appeal site, and outrigger at the neighbouring property the space would be enclosed which would limit the amount of daylight received and also result in a poor outlook from this space.
 7. Flat 2 would be located on the ground floor, to the rear of the appeal building and all of the proposed windows would face the amenity space. As a result, any users of this space and people entering via the rear entrance would be able to see into flat 2 through every window which would mean future occupiers would have very little privacy.
 8. The windows that serve the kitchen and living room would face the neighbouring outrigger at No 377 and boundary treatment between the properties. Due to the closeness and overall height of these the space would be enclosed and the outlook from flat 2 would be restricted and the amount of daylight received would be limited.
 9. Flat 4 would be located on the first floor, to the rear within the outrigger. The windows serving the living room and kitchen would face towards No 377 which due to the closeness, would restrict the amount of daylight received as well as the outlook from these rooms.
 10. Flat 5, located on the second floor would have a rooflight and window within the proposed dormer that would serve the bedroom and living room area towards the front of the appeal property. These windows would provide a good level of daylight into the room. While the rooflight, due to its height over 2m above ground level would provide limited outlook, the dormer would allow views towards the open space opposite the appeal site and therefore provide a good outlook for future occupiers of this flat.
 11. I acknowledge that the positions of many of the windows would not change and they already serve the existing HMO which is occupied by residents. However, the existing situation is not a reason to allow poor living conditions for future occupiers.
 12. The Council have found that flat 3 would provide adequate living conditions for future occupiers for which I have no reason to conclude otherwise.
 13. Notwithstanding flats 3 and 5, I conclude that the proposed development would not provide adequate living conditions for future occupiers of flats 1, 2 and 4 with particular regard to internal space, outlook, daylight and privacy. It would be contrary to Policy PS10 of the City of Leicester Local Plan (Incorporating the City of Leicester Minerals Local Plan) 1996-2016 Adopted January 2006 (LP) and Paragraph 135 of the Framework. Amongst other things, these seek to ensure that the amenity of proposed residents is taken into account.

Living conditions for neighbouring occupiers

14. The proposal would increase the height of the outrigger to the rear. While it would not extend beyond the existing side elevation, the increase in height, combined with the outrigger that exists at No 377 would further enclose the space between the properties. No 377 has several windows which overlook this space and therefore, due to the space being further enclosed, the outlook from these windows would be dominated by the proposal. The closeness and increase in height of the proposal would also reduce the amount of daylight received by these windows.
15. No 112 Grace Road is a mixed use property which contains commercial uses at the ground floor and bed sits on the first and second floor. There is a window on the first floor of No 112 that faces towards the appeal site. While the occupiers of No 112 already largely look towards the appeal site, the proposed first floor extension, through the increase in depth and height would increase the built form on the appeal site and result in an overbearing feature when viewed from the first floor window.
16. I therefore conclude that the proposal would harm the living conditions of the occupiers of neighbouring properties with particular regard to outlook and daylight. It would be contrary to Policy PS10 of the LP and Paragraph 135 of the Framework. Amongst other things, these seek to ensure that the amenity of existing residents is taken into account.

Other Matters

17. The Council have found that the proposal would not harm the character and appearance of the area for which I have no reason to conclude otherwise. However, this is a neutral matter that does not outweigh the harm identified.

Planning Balance

18. The proposed development would be contrary to Policy PS10 of the LP. This Policy is consistent with the Framework in seeking to ensure that the amenity of future and existing residents are taken into account.
19. The Council is unable to demonstrate a 5-year supply of deliverable housing sites in accordance with paragraph 76 of the Framework. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, the policies which are most important for determining the application should be deemed out-of-date and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. The dwellings proposed would be a small but important contribution to the existing housing shortfall. The proposal is also a windfall scheme which can be built out quicker and at a higher density that would utilise the existing building and land. However, the benefits of housing delivery, to which I have attached significant weight, are tempered by the fact that the provision of five additional units would only make a small difference to housing supply.
21. There would be some economic benefit during the construction phase as well as any potential Council tax that future occupiers might pay. The appeal site is also located near to public transport and cycle routes which could reduce

carbon emissions. It would also widen the choice of accommodation in the area.

22. In this instance, the adverse impacts on the living conditions of future and neighbouring occupiers would significantly and demonstrably outweigh the very modest benefits and as such the proposal would not constitute a sustainable form of development in terms of the Framework.
23. Consequently, when assessed against the policies in the Framework when taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits.

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

D Wilson

INSPECTOR