



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: 27 February 2024

Appeal Ref: APP/W2465/W/23/3330370

544 Aylestone Road, Leicester LE2 8JB

- 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 Umesh Kalra on behalf of Kalra Property Services Ltd against the decision of Leicester City Council.
 - The application Ref 20230913, dated 18 May 2023, was refused by notice dated 13 July 2023.
 - The development proposed is change of use from 6 bed 6 person HMO (use class C4) to Sui Generis 7 bed 7 person.
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Decision

1. The appeal is dismissed.

Preliminary Matters

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.
3. The appellant has submitted existing floor plans¹ for the development, in response to the Council's first reason for refusal. This plan shows the layout of the appeal property as a six bed HMO, prior to the creation of the seventh bedroom. This amended plan was available when the appeal was submitted, and the Council have seen sight of this and had the opportunity to provide their views. The plan has provided clarification of the previous situation on site and does not propose any changes to the appeal scheme. Accordingly, no one would be prejudiced were my decision to have had regard to this plan. I have therefore done so.
4. At the time of my site visit, I saw that the development was substantially complete and I have dealt with the appeal on that basis.

¹ 21,082-P-002

Main Issues

5. The main issues are:

- whether the development provides adequate living conditions for future occupiers with particular regard to daylight, outlook and the provision of private amenity space; and
- highway and pedestrian safety with particular regard to the provision and access to parking.

Reasons

Living conditions

6. No 544 Aylestone Road is a two storey semi-detached dwelling located in a primarily residential area. No 544 is currently in use as a HMO for six people, however, at the time of my site visit internal works had been completed to create a seventh bedroom which was unoccupied.
7. Bedroom 7 is located on the ground floor, at the rear of the property. It is served by a window which overlooks the shared garden area. The garden area is enclosed by a brick wall and fence which is the predominant outlook for the occupier of bedroom 7.
8. The distance between the window and the rear most point of the boundary treatment is over 4m and there is some landscaping, albeit this is limited due to the small size of the garden. Notwithstanding this, the wall and fence that enclose the shared garden, due to their overall height and closeness, particularly to the side of the window is still the dominant outlook for the occupier of this room which results in an enclosed space.
9. As the room is only served by one window which is close to the boundary treatment, daylight is restricted and the result is a room that is not well lit, despite the window being large. I note that there is circulation space within the room for furniture and that the ceiling is high, however, this does not mitigate the limited outlook and amount of daylight received.
10. I note that the occupier of bedroom 7 specifically requested this room for higher levels of privacy. While this may be the case, I must have regard for any potential future occupiers of this room who might have different preferences.
11. The Council consider that the occupier of bedroom 7 would also experience poor outlook from the communal areas which include the kitchen/dining/living area. However, the communal areas are served by several windows, a large rooflight and patio doors which in combination provide a good level of outlook for users of this space. However, it does not mitigate the poor outlook and daylight from bedroom 7.
12. The Council suggest that there would be 24SQM of outdoor private amenity space, which is not disputed by the appellant. The Council's Residential Amenity SPD² does not set out an amount of amenity space required for HMO's. However, 100SQM is considered acceptable for a larger family home which the Council consider to be comparable to a 7 person HMO.

² Residential Amenity supplementary planning document Adopted February 2008.

13. The amount of outdoor private amenity space would be limited. However, the appeal scheme provides internal communal space which is greater than the Council's relevant guidance³. The outdoor space is also accessible for all residents from the communal areas via a patio door. The design therefore allows residents to use a combination of the internal and external amenity spaces to meet their individual needs. This will differ to that of a large family home where occupiers would be more likely to require use of spaces at the same time.
14. I am also mindful that that there is public green space within a short walking distance to the appeal site. While the route to the space is not direct, it is well pathed and signposted. I am therefore satisfied that having regard to the amount of internal amenity space and public green space nearby that the amount of private amenity space is adequate for the needs of future occupiers.
15. Notwithstanding my findings on private amenity space and outlook from the internal communal areas, I conclude that the development does not provide adequate living conditions for occupiers with regard to outlook and daylight. It is contrary to Policy CS03 of the Leicester City local development framework Core Strategy adopted July 2014 (CS), Policy PS10 of the City of Leicester Local Plan Saved Policies Version Adopted January 2006 (LP) and Paragraph 135 of the National Planning Policy Framework (the Framework). Amongst other things, these seek to ensure that the amenity of existing or proposed residents is taken into account and improve the quality of life of residents.
16. The development would also be contrary to guidance contained within the Council's Residential Amenity SPD which seeks to maximise daylight and avoid undue loss of outlook.

Highway safety

17. The appeal site has a block paved frontage which is adjacent to Aylestone Road which is a classified road. There is a cycle lane that runs immediately along the frontage of the property that prevents any on-street parking.
18. The appeal proposal shows that the block paved area could be used to provide 2 car parking spaces. However, at the time of my site visit the block paved frontage was not accessible by a dropped kerb and as such, could not be used for car parking.
19. I understand that since the determination of the application that the appellant has been granted planning permission⁴ for a dropped kerb. However, no dropped kerb is proposed as part of the appeal. Therefore, in the absence of the dropped kerb, it would not be possible to safely access the parking spaces proposed.
20. I appreciate that the appellant considers that the Council could have requested an amendment to the application and that the dropped may not have been contentious. However, while I note the appellant's frustration, there is no requirement for the Council to propose changes to the scheme.

³ Leicester City Council Corporate Guidance October 2019 Achieving Well Designed Homes Residential Space Standards, Amenities and Facilities.

⁴ 20231526

21. The Council have no specific requirements for parking for HMO's and in this regard the Council have not raised concern. It is also of note that in the absence of the dropped kerb, that no parking would have been provided for the existing 6 person HMO, as such, there is limited information before me to demonstrate that an additional person would require the scheme to have 2 car parking spaces.
22. Nonetheless, I acknowledge that the appellant is showing some intent to drop the kerb. The addition of car parking, that can be safely accessed, would be a benefit to the scheme. I am also mindful that there is scope through a suitably worded planning condition, that the use of the car parking spaces could be restricted until the dropped kerb is installed.
23. For the reasons outlined, I am satisfied that the proposal would not unacceptably harm highway and pedestrian safety. I find no conflict with Policies AM01 and AM12 of the LP, Policies CS14 and CS15 of the CS and Paragraph 115 of the Framework. Amongst other things, these require physical measures such as dropped kerbs in appropriate circumstances, ensure appropriate parking is provided and ensure development is accessible for all.
24. The development would also comply with guidance contained within the Council's Design Guide⁵ which seeks to ensure that car parking is well designed.

Other Matters

25. The Council's first reason for refusal relates to their concerns over inaccurate plans submitted with the planning application. The specific concerns relate to the existing plans, which show the property before it was in use as a HMO. The Council also suggest it is unclear what the use of bedroom 7 was and that the application form suggested works had not commenced. In relation to these matters, the appellant has submitted existing floor plans with the appeal which accurately show the layout of the property prior to the conversion. The Council have confirmed that their position would not have been altered if this information was provided at the time the decision was made. I have therefore not sought to explore these matters further.
26. I have had regard to the appeal decision⁶ provided by the Council. However, the circumstances of this appeal scheme are different as it would have resulted in only one occupier having direct access to the rear amenity space. The appeal before me is designed so that all residents will have access to the outdoor space through the internal communal areas.
27. The Council have found that the proposal would be within an acceptable location and also be acceptable in regard to noise for which I have no reason to conclude against. I also note that the appellant considers the internal finish of the property to be of high quality. However, these are neutral matters that do not outweigh the harm I have identified.
28. I acknowledge the appellant's frustration that they consider the Council did not engage with them during the applications consideration, introduced different

⁵ Leicester Street Design Guide June 2020

⁶ APP/G5750/W/22/3297588

reasons for refusal since a previous application⁷ and also that a site visit did not take place. However, I can only consider the planning merits of the case.

Conclusion

29. For the reasons set out above, having had regard to the development plan read as a whole, and all other material considerations, I conclude that the appeal should be dismissed.

D Wilson

INSPECTOR

⁷ 20222459