



Appeal Decision

Site visit made on 8 April 2024

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 12th April 2024

Appeal Ref: APP/T2405/W/23/3333148

207a Blaby Road, Enderby, Leicestershire LE19 2AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Nizam Bata of IBC Healthcare against the decision of Blaby District Council.
 - The application Ref is 22/1218/FUL.
 - The development proposed is sui generis use - change of use from single dwelling house to 3 self-contained areas, with ancillary sensory room, storerooms, staff toilet and an additional room.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has already been completed and is in use, for the avoidance of doubt the appeal has been determined based on the appeal drawings.

Main Issues

3. The main issues are the effect of the development on:
 - the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance;
 - highway safety; and
 - whether the need for the proposed development outweighs any harm identified in respect of the above issues.

Reasons

Living conditions

4. The appeal property and No 205a Blaby Road are in a backland position, with their access drives passing between Nos 205 and 207 and extending along the entire length of both properties' rear gardens. In addition, the access is slightly elevated in comparison to No 207. The proximity of the access to habitable rooms in Nos 205 and 207 and their rear gardens creates a sensitive relationship.
5. No changes are proposed to the existing access, which was previously approved when the property was in use as a single-family dwelling. However, as indicated by the submitted Connect Consultants Appeal Statement, the development generates approximately 14 vehicle trips per day compared to an average of 5 vehicle trips per day when the property was in use as a single-

family home. Whilst I note that these journeys would be spread throughout the day, even based on the conservative figures provided within the Transport Statement, the development has significantly intensified the use of the access beyond that expected of a single-family home.

6. As a result, the amount of activity associated with the property has significantly increased, particularly noise associated with comings and goings both on foot and in vehicles, as well as glare from headlights of vehicles in periods of darkness. Due to the sensitive relationship between the access and the adjacent properties, I am satisfied the development has resulted in unacceptable disturbance for the occupiers of neighbouring properties.
7. Consequently, I conclude that the proposal would harm the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance. As such, the development conflicts with Policy DM1 of the Blaby District Local Plan (Delivery) Development Plan Document (February 2019) (DDPD) where it requires development to have a satisfactory relationship with nearby uses, that would not be significantly detrimental to the amenities enjoyed by existing and nearby residents, including considerations of noise and disturbance, hours of working and vehicular activity.

Highway safety

8. The parties have assessed the application based on the retention of the existing access. However, there are inconsistencies between the drawings before me. The site plan, drawing 20/11/21 Page 1 of 5 indicates that the existing access would be widened, while the site plan, drawing 23100-010 contained within the Connect Consultants Transport Statement dated July 2023 shows the access retained as existing.
9. The application form states that the proposal does not include an altered vehicular or pedestrian access and the Council has taken drawing 23100-010 into account. Therefore, I have determined the appeal based on this drawing, which shows the retention of the existing access on site.
10. As I have concluded above, the development has significantly intensified the use of the access. Whilst I note that the increased number of comings and goings would be somewhat spread throughout the day, due to the nature of the staff shift patterns, it is likely that vehicles would need to pass one another at certain times, even if not all staff members drive to the property.
11. The Council asserts that the access should be 3.75m wide for the first 5m to allow space for vehicles to wait and safely pass one another. Although the existing width falls below this standard, it is only marginally narrower. Moreover, the access meets the highway at a substantial paved verge, wide enough for vehicles to leave the carriageway and wait for any exiting vehicles before proceeding along the access drive. Notwithstanding the past collisions to the east of the site, I am satisfied that there is ample space for vehicles to wait and pass, without obstructing the flow of traffic or pedestrians.
12. Whilst I note that the appellant suggests that the pedestrian visibility splays should only be provided in relation to the 'effective footway' there is nothing to stop pedestrians deviating from this, particularly if the adjacent fencing is removed. Consequently, the splays must be taken from the back of the highway, which includes the adjacent paved and grassed verges.

13. Both splays are partially obstructed by fences more than 0.6m in height and predominantly fall within land outside of the ownership of the appellant. Therefore, the splays cannot be adequately secured, nor can it be guaranteed that further obstruction, beyond the existing level due to the existing fencing, would not take place in future. I note that there have been no recorded incidents in relation to the access both while in use as a single-family dwelling nor since the change of use. However, given the inadequate visibility and the intensification of use, the risk of conflict between emerging vehicles and pedestrians has significantly increased.
14. Therefore, I conclude that overall, the development has harmed highway safety. It conflicts with Policy DM8 of the DDPD which requires all new development, including changes of use to meet highway design standards as set out in the Leicestershire Local Highway Guidance. There is also conflict with the National Planning Policy Framework (the Framework) which seeks to ensure safe and suitable access to sites can be achieved for all users and that any significant impacts on highway safety can be mitigated to an acceptable degree.

Need for the proposed development

15. The development provides supported living accommodation for 3 individuals with complex needs under the transforming care programme. Therefore, I have had regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. The duty includes having regard to the need to eliminate discrimination, harassment, and advance equality of opportunity between those sharing relevant protected characteristics and those who do not.
16. I note the needs of the residents of the property and understand that the facilities provided allow them to receive appropriate care within a residential setting where they can become involved in the community and lead relatively normal lives with the assistance and guidance of qualified and experienced staff. However, there is no evidence to suggest that the appeal property is the only property available within a residential area that could be used for this purpose.
17. Therefore, mindful that I have found that the development harms both the living conditions of the occupiers of neighbouring properties and highway safety, I am satisfied that the legitimate aims to ensure the amenities of nearby residents and maintain highway safety, can only be safeguarded by a dismissal and PSED considerations do not lead me to an alternative view in this case. Moreover, following careful consideration of the duty to advance equality of opportunity, I am satisfied that the impact of dismissing this appeal would be acceptable and justified.

Conclusion

18. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework that would outweigh that conflict. Therefore, the appeal is dismissed.

K Allen

INSPECTOR