



Appeal Decision

Site visit made on 25 April 2024

by Laura Renaudon LLM LARTPI Solicitor

An Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal Ref: APP/W2465/C/23/3323720

330 Victoria Park Road, Leicester LE2 1XF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Dipesh Shah against an enforcement notice issued by Leicester City Council.
- The enforcement notice was issued on 4 May 2023.
- The breach of planning control as alleged in the notice is *without planning permission, the material change of use from a single dwelling to 7 self-contained flats*.
- The requirements of the notice are to cease the use of the Property as self-contained flats and to remove all fixtures and fittings associated with the self-contained flats.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is allowed, the notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Main Issues

1. The main issue for consideration in the appeal, arising out of the Council's reason for issuing the notice, concerns whether the development results in satisfactory living conditions for its occupiers. The particular issues raised are the size and outlook of the flats, whether safe and satisfactory access to them is provided, whether there is sufficient car parking or bike storage, and whether adequate and suitable bin storage can be provided.
2. In the alternative to gaining permission for the development as alleged, the appellant proposes two different alternatives. One is to convert the property into two separate flats, one with four bedrooms and the other with two. The other alternative proposal is to convert the property into a six-bedroomed house in multiple occupation.
3. If permission is not forthcoming for the development as alleged in the notice, I should need to consider whether either alternative scheme may reasonably be considered under the deemed application for planning permission. My powers under the relevant legislation are to grant permission for the whole or any part of the development alleged. I should thus need to be satisfied that either or both of the alternative schemes fall within that description. I should also need to be satisfied that sufficient consultation has been carried out.

Reasons

Size, outlook and access

4. The Council do not object in principle to the loss of this family dwellinghouse to a residential use of another form, conceding that the Council cannot

demonstrate a five year housing land supply. They contend however that the conversion of this property to seven flats results in cramped and unsatisfactory living conditions for its occupants.

5. Applying national space standards, I would agree with the Council's analysis, but the proposal here, reflecting its present use, is put forward specifically as student accommodation, and an issue disputed by the parties is whether the Council's policy relating to the provision of purpose built student accommodation should apply, with the Council's approach being that it is directed towards new-build developments rather than residential conversions.
6. Policy CS6 of the Leicester City Core Strategy, adopted in 2014, proposes to meet local housing requirements by means including by conversion schemes to support the development of sustainable communities. In respect of student housing, it is intended to work in consultation with the city's Universities to assess the need for student housing, to identify appropriate locations and to devise appropriate design and management standards. Purpose built student housing meeting these objectives will normally be accepted. I do not understand the need for student housing or the appropriateness of the location here to be in dispute.
7. I am referred to the Council's Corporate Guidance of October 2019, 'Achieving Well Designed Homes' which sets out general residential space standards. It recognises that living space requirements can be different according to life stages and tenancy types. In particular, it states that the Council's Student Housing Supplementary Planning Guidance provides advice for student accommodation.
8. Turning to that SPG, section 2 specifically applies to the provision of new purpose-built student accommodation. It provides that developers are expected to demonstrate a need for such development, and encouraged to provide a mix of flat sizes in any scheme. Individual bedrooms should be of a sufficient size to meet inclusive design requirements, although no floor space standards are given. Section 3 of the document then considers the provision of shared housing in existing residential areas, referring to the use of Article 4 Directions (as applies to this property) to control the proliferation of HMOs.
9. Thus the provision of student flats other than by new-builds is not expressly dealt with by the SPG, notwithstanding the expectation arising from the Corporate Guidance that it will deal with all forms of student accommodation. Nor does the SPG assist me in understanding what floor area might be expected of a student flat, purpose-built or otherwise. The appellant refers me to a standard adopted by a London Borough of 15.5sqm. Whilst this is a useful example of what is thought acceptable elsewhere, it can carry no weight here.
10. Policy H07 of the City of Leicester Local Plan, adopted in 2006, is permissive of the conversion of existing buildings to self-contained flats, provided that the proposal is satisfactory in respect of a number of matters including the creation of a satisfactory living environment.
11. The flats, designed for single occupation, are each between 18 and 24sqm which is significantly less than the national space standard of 37sqm. Some but not all flats have seating areas as well as a bed; some have a separate (or semi-separate) kitchen area. All have a separate bathroom and contain satisfactory kitchen facilities. One is split level, with the kitchen and a small

desk area above the bedroom. All but one of the flats were occupied at the time of my visit.

12. Entry to six of the flats is obtained through the main front door of the property, with the seventh flat formed of a ground floor rear outrigger and accessed via a narrow alleyway from the side street. It is necessary to pass the rear gates of a few other properties to reach it. An external gate at the end of the alleyway allows for locking after entering the alleyway, and some lighting has been installed. Although there is no natural surveillance, these arrangements to prevent unauthorised entry to the alleyway provide adequate security on balance. That seventh flat appears to have exclusive use of the property's small rear terrace area. The flats to the front of the property have a good outlook over Victoria Park; those to the rear overlook the dwellings behind or, in the case of the ground floor, the property's own rear yard and walls. All flats have adequate natural light. Circulation space is limited, consisting only of corridors and stairs used to access the individual flats.
13. The Council express concern as to the lack of outdoor amenity space which does not appear available to any occupier other than the seventh flat. Lying opposite the substantial Victoria Park, the occupants would have access to usable amenity space. There appeared several launderettes within relatively easy reach if clothes drying is required.
14. Overall if used as general housing I would not find these arrangements to be satisfactory because of the relatively small size of the flats. However, they are proposed as student accommodation and, as the Council's own Corporate Guidance recognises, living space requirements can be different depending on life stages. On balance I find that the flats are all adequate to provide what is needed for who will usually be a young person living away from the parental home for most but not all of the year. There are sufficient independent living facilities and room for studying in each of the flats. Their outlook is adequate and they are not unduly cramped in the context of their existing and proposed occupation.

Parking and storage

15. Policy AM12 of the Local Plan makes provision for residential car parking, but sets out that reductions in what are described as maximum standards may be appropriate in circumstances including locations with convenient public transport links. The property here lies opposite the University of Leicester, within a few yards of bus stops and a little more than a mile from the railway station which can be reached by a pleasant walk through Victoria Park and the New Walk. A grocery store lies within half a mile. Given this location, and the present and intended occupation only by students, I find no car parking provision to be necessary.
16. For the same reasons I consider it unlikely that many of the occupants will have bicycles requiring storage: policy H07 requires that such arrangements are satisfactory. The appellant considers a requirement for four cycle parking spaces plus a visitor space would be generated. The appellant refers to a development a few doors away at which it is said that both bin stores and covered cycle storage were approved within the front forecourt. There would be ample space to provide them in the same way here, but a condition to achieve satisfactory screening would be required in order to avoid detriment to the street scene.

Conclusion on the main issue

17. For the reasons given above I conclude on balance that the development would result in satisfactory living conditions for its student occupiers, and that no conflict with the development plan for the area would result, subject to the imposition of appropriate planning conditions.

Conditions

18. The Council suggest only one condition if the ground (a) appeal succeeds, requiring the submission of details of waste and cycle storage and their retention once provided. I shall impose this condition with the additional requirements that the approved details are to be provided within a month of their approval. I also see no reason to allow six months for the submission of the details and shall shorten this to two months.
19. It follows from what I have said above that a condition requiring the submission of a suitable landscaping scheme to secure adequate screening of the waste and cycle storage area is also required. I shall impose this, together with a requirement to achieve the approved details.
20. The appellant suggests a further condition that I shall also impose, restricting the occupation of the property by students only. The Council have not commented on its wording and I shall apply it as proposed, save to impose it as a negative restriction rather than as a positive requirement. As it is the occupation by students that has justified the permission, the condition is plainly necessary and it appears to me reasonable and enforceable. For the avoidance of any doubt I shall also reflect this in the description of the operative permission granted.

Conclusion

21. For the reasons given above I conclude that the appeal should succeed on ground (a) and a conditional planning permission will be granted. The appeal on ground (f) does not therefore need to be considered.

Formal Decision

22. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use of land at 330 Victoria Park Road, Leicester LE2 1XF as seven self-contained flats for student occupation subject to the following conditions:
- (1) Within two months of the date of this decision details of the arrangements for waste storage and collection and cycle storage shall be submitted to the Council for approval. The cycle storage and waste storage and collection arrangements shall be provided within one month of the Council's approval and retained thereafter.
 - (2) Within two months of the date of this decision there shall have been submitted a scheme of landscaping to the Council for approval. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be planted or retained and set out measures for their protection throughout the course of development.

- (3) All planting, seeding, turfing or the provision of boundary treatments comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the Council's approval of the details, whichever is the sooner; any walls or fences shall thereafter be retained during the lifetime of the development; and any trees or plants which within a period of 5 years from planting or seeding die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- (4) The flats hereby permitted shall not be occupied except by students enrolled on full-time courses at further and higher education establishments, or by students working at a medical or educational institution as part of their medical or education course. The owner, landlord or person in control of the development shall keep an up to date register of the name of each person in occupation of the development together with course(s) attended, and shall make the register available for inspection by the Council on demand at all reasonable times.

Laura Renaudon

INSPECTOR