



Appeal Decision

Site visit made on 3 June 2024

by L Fleming BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/X2410/W/24/3338946

26E High Street, Quorn, Loughborough LE12 8DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Quorn Courtyard Gardens Ltd against the decision of Charnwood Borough Council.
 - The application Ref is P/21/2676/2.
 - The development proposed is the erection of eight detached dwellings with landscaping and associated works following demolition of an existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Prior to the Council reaching its decision, the scheme was amended from nine dwellings to eight. I have also determined the eight dwelling scheme with the associated details also showing increased levels of on-site landscaping and private outside space and a different mix of houses including one, two and three bed units. I have amended the description accordingly and I am satisfied that no party has been prejudiced by my approach.
3. The Charnwood Local Plan (2021-2037) is currently being examined. The Council has provided detailed information on the weight it considers should be attributed to each of its draft policies. However, I must make my decision based on the adopted development plan. Insofar as is relevant to this case the most important policies referenced in my decision are not materially different from those of the emerging plan. I have therefore given the draft planning policies only limited weight in my determination because even if I had afforded them full weight the outcome of the appeal would have been the same. I am therefore satisfied that no party is prejudiced by my approach to this matter.
4. The National Planning Policy Framework (the Framework) was updated in December 2023 after the Council's decision. Again, the revised Framework does not materially alter the national policy approach in respect of the issues raised in this appeal, it has not therefore been necessary to specifically consult the main parties on this.
5. It is common ground that the proposed development would cause no harm to the nearby heritage assets or their settings, those being the Quorn Conservation Area and the grade II listed Quorn Court. I find no reason to question this and agree there would be no harm to the significance of either of these designated heritage assets.

6. A Unilateral Undertaking (UU) has been submitted with the appeal which provides for contributions deemed necessary to secure biodiversity net gain. Even if I found the planning obligation met all the relevant tests, this would not have altered the outcome of the appeal. I have not therefore needed to reach a definitive conclusion on the matter. However, for the avoidance of doubt, I confirm I have determined the appeal on the basis that all obligations sought would be met and I have taken them into account in my planning balance.

Main Issues

7. The main issues are the effect of the proposal on the living conditions of:
- The occupiers of Quorn Court with particular regard to privacy and noise and disturbance arising from pedestrian and vehicular traffic.
 - The occupiers of the proposed dwellings with particular regard to access to private outdoor space.

Reasons

Living conditions (Quorn Court)

8. The appeal site is a large detached dwelling (No 26E High Street) occupying a large plot. It is accessed through Quorn Court which is an apartment block with garaging and outdoor communal areas. Quorn Court is accessed from High Street where the High Street access connects to a one way loop (the one way loop) around the grounds and communal areas which include two garage blocks and hard surfaced parking areas. The appeal site and a number of other dwellings which adjoin Quorn Court¹ can only be accessed through Quorn Court utilising the High Street access and the one way loop which currently serve 16 dwellings.
9. No 26E High Street would be replaced with eight dwellings which would be accessed from the one way loop. 14 car parking spaces would be provided in accordance with the standards set out in appendix 1 of the Borough of Charnwood Local Plan 1991-2006 (2004) (LP).
10. However, a Certificate of Proposed Lawful Development has also been granted for the use of the appeal site as a six bed House in Multiple Occupation² (Use class C4). It is common ground that this represents a valid fall-back scheme and I agree. I therefore compare the effect of 15 dwellings and a six bed House in Multiple Occupation with the appeal scheme below.
11. The transport evidence³ shows, among other things, that the appeal scheme would generate one additional trip in the morning peak hour than the fall-back scheme. That evidence also shows no change in vehicular movements is predicted in the PM peak hour. Overall, it shows when compared with the fall-back scheme, there would be 10 additional vehicle movements across the weekday 12-hour day period. I have also noted the Noise Impact Assessment and note the Council's Environmental Protection Manager found that the noise impact from the use of the access road is likely to give rise to a minor impact and is unlikely to change the prevailing character of the ambient noise.

¹ As detained in A040_Car Parking Study, January 2024.

² Council reference P/23/1995/2

³ Including that submitted with the Planning Application and the Transport Appeal Technical Response; Ardent Consulting Engineers, February 2024

12. However, the one way loop currently surrounds the only communal outdoor space associated with the 11 dwellings which comprise Quorn Court. This outdoor space is currently relatively open and without significant screening such that vehicle movements will be widely visible and audible when using that outdoor space. Furthermore, the one way loop passes through a narrow gap very close to the side and front of the apartment block, passing by main habitable rooms of ground floor flats where vehicles passing by will be experienced by people using those rooms.
13. Even when compared with the fall-back scheme the proposal would increase the number of vehicle movements on the one way loop. The occupiers of Quorn Court, when compared to the fall-back scheme would therefore experience an increase in engine noise and emissions, vehicle audio and headlights and vibrations associated with vehicle movements when using the only usable outside space for Quorn Court and the ground floor apartments.
14. The evidence shows, there is already a significant amount of traffic passing through the one way loop. This does not mean adding more traffic is acceptable. In my view, against this background, an increase from 95 to around 105 movements per day would be material and noticeable. I do not accept it would be tolerable and instead find it would harm the living conditions of the occupiers of Quorn Court with particular regard to noise and disturbance. Furthermore, it would also increase the opportunity for the communal outside space to be overlooked and would increase the chance of activities taking place within the ground floor apartments of Quorn Court to be observed resulting in harm to the living conditions of the occupiers of Quorn Court with regard to privacy.
15. In reaching these conclusions I acknowledge the comment that the level of privacy afforded to Quorn Court's communal outdoor space is already very minimal to non-existent and is not tranquil or private being surrounded by driveway, service areas and parking. I also note the comments that the ground floor apartment windows close to the one way loop are currently not private and experience low levels of privacy. However, these factors do not justify a proposal which even having regard to the fall-back scheme would, in my view, be more materially harmful.
16. Thus, overall, I find the proposed development would harm the living conditions of the occupiers of Quorn Court with particular regard to privacy and noise and disturbance arising from vehicular and pedestrian traffic. In this regard the proposal would conflict with Policy CS2 of the Charnwood Core Strategy (2015) (CS) and Policy H5 of the Quorn Neighbourhood Plan (2019) (NP) which taken together require good design and seek to ensure new development does not unacceptably impact upon the amenity of existing occupiers. The scheme would also conflict with paragraph 135 of the Framework which, among other things, aims to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Living conditions (Occupiers of the proposed development)

17. The eight proposed dwellings would each have access to an area of private outdoor space.

18. The Council's concerns relate to the proposed outside spaces for units one, seven and eight which would be some 111, 154 and 110 metres square respectively. I accept the proposed outside space for these units would have parking close to them. I also accept they would have mature hedging and trees and brick walls along parts of their plot boundaries. However, this does not mean the proposed outside spaces for units one, seven and eight would not be useable for sitting out, recreation or any other private domestic outdoor activity.
19. In my view, the proposed outside spaces for all proposed dwellings are of an appropriate quality and proportionate in size to the dwellings proposed and would not result in harmful living conditions for any future occupiers of the proposed development. In this regard I find the occupiers of the proposed development would not have harmful living conditions with particular regard to access to private outdoor space. There is therefore no conflict with Policy CS2 of the CS or EV/1 of the LP which taken together seek to ensure good design and residential amenity.

Other Matters

20. In reaching these conclusions I have noted the representations in support of the scheme. I also note the pre-application engagement that has taken place prior to the submission of the planning application and note the comments with regard to whether or not living conditions was raised as an issue. I also note all the comments with regard to the Council's handling of the proposals and the behaviour with regard to a number of parties during the planning application and appeal process. However, I confirm I have had regard only to the planning merits of the case before me and these matters or any others raised are insufficient to outweigh my earlier findings.

Conclusion

21. I note eight high quality dwellings would be provided in a service centre location where services and facilities could be walked to and easily accessed using a range of sustainable transport modes. I also note those dwellings would be suitable for older people and people with restricted mobility and of a size which accords with Policy H3 of the NP and would clearly meet an identified local need for the type of accommodation proposed. There would also be a biodiversity net gain as secured by the UU and the economic benefits associated with construction and local expenditure. I also note the comments with regard to the scheme being in accordance with the National Design Guide and the Charnwood Design Supplementary Planning Document (2020). However, even if I accept all these as benefits of the scheme, in my view, they are insufficient to outweigh the harm I have identified above.
22. Thus, for the reasons given above, the proposal would not accord with the development plan as a whole and there are no other sufficient material considerations to indicate a decision should be made other than in accordance with the development plan. On this basis, I therefore conclude the appeal should be dismissed.

L Fleming

INSPECTOR