



Appeal Decision

Site visit made on 4 June 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/L2440/W/24/3337779

52A Blaby Road, Wigston, Leicestershire LE18 4SD

- 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 Mohammad Iqbal against the decision of Oadby and Wigston Borough Council.
 - The application Ref is 23/00141/FUL.
 - The development proposed is the conversion of the loft floor to 4x 1 bed flats (C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development, as set out in the banner above, differs to that on the application form because during the Council's consideration of the application the proposal was amended, to omit the conversion of part of the ground floor (retail shop) to one 1-bed apartment. The proposal also includes a number of proposed roof lights on the building. The Council determined the appeal proposal on this basis and so have I.
3. A completed planning agreement, dated 15 March 2024 and made under section 106 of the Town and Country Planning Act, 1990, as amended, (the Agreement), has been agreed by the main parties and secures the provision of 2 affordable housing units and a financial contribution towards off-site open space, sport, and recreation. The Council has confirmed that the Agreement overcomes its reasons for refusal Nos 2 and 3. Additionally, the Council has provided correspondence from Leicestershire County Council's Solicitor, advising that they no longer wish to pursue the library contribution, as referred to in its reason for refusal No 4. I return to this below.

Background and Main Issues

4. While the Council's decision notice is not entirely clear, based on the evidence before me, including the Council officer's report, it is appropriate and reasonable for me to fully consider the living conditions of future occupants of the proposed development, in view of the fact that the development relies solely on roof lights to serve the proposed new apartments.

5. Bearing in mind the outstanding matters in dispute, I consider the main issues in this appeal are:
- whether the proposal would preserve or enhance the character or appearance of the South Wigston Conservation Area; and,
 - whether the proposed dwellings would provide acceptable living conditions for the future occupants of the units, in respect of natural light and ventilation.

Reasons

Character and appearance

6. The appeal site lies within the South Wigston Conservation Area (CA), so I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
7. The CA designation covers an area developed in the late 19th century by the owner of a large brickworks. The development pattern of the CA follows that of other 'model' Victorian towns and developed with residential and commercial streets laid out as a grid. The built form in the CA comprises a mix of terraces of a similar style and scale, and some larger houses on Orange Street and Saffron Street. Commercial routes, including Blaby Road, are characterised by ground floor retail uses with accommodation above.
8. The appeal site is in a mixed use area, with commercial and residential premises along Blaby Road, including flats above shops, and terraced 2-storey residential properties along Glen Gate. Blaby Road is a busy main road, whereas Glen Gate is a quiet residential street, indicative of the typical grid pattern of development that is characteristic of the CA as a whole.
9. The appeal building is a prominent tall 2-storey corner building, containing commercial units at the ground floor, fronting Blaby Road, and residential flats at the upper floor levels. Whilst it is constructed of red brick with hipped roof, in terms of its age, scale and proportions, the appeal building stands out as somewhat anomalous in the wider context of a traditional late 19th century townscape. Notwithstanding such, the existing building currently has a simple roof form, unbroken to the Blaby Road frontages and end of the side roof slope in Glen Gate. The uncluttered and unbroken roof scape of the appeal building assists in assimilating the structure within the surrounding area. Therefore, while it is of limited architectural or historic interest, the appeal building is a neutral feature that neither enhances nor detracts from the character or appearance of the CA as a whole.
10. While the proposed number of roof lights would be less than the superseded iteration of the proposal, the appeal scheme would still introduce several additional roof lights to the host property. Although roof lights already exist on the host building and, I noted there are some examples of roof lights on other buildings in the vicinity of the appeal site, namely on a building at the corner of Station Street and Blaby Road, roof lights are not a traditional feature or a positive characteristic of the CA. Irrespective of their colour and design, the proposed roof lights would proliferate and undermine the currently uncluttered and unbroken roof scape of the appeal building.

11. Notwithstanding the proximity of street trees and street furniture, which may limit views of some of the proposed rooflights from certain directions, particularly when trees are in full leaf, the roof lights would be located on parts of the roof slope where they would be visually prominent from views in Blaby Road and Glen Gate.
12. As a consequence, the eye would be unacceptably drawn to the appeal building, thereby making it stand out as more conspicuous within the surrounding area. That there are other unattractive, modern buildings near to the appeal site, does not mitigate or justify development that would fail to respect the character of the area.
13. Accordingly, I find that the proposed development would be harmful to the character and appearance of the area and so, would fail to preserve or enhance the character or appearance of the CA as a whole.
14. I note the judgment in respect of Pagham Parish Council and Arun District Council and Claudia Langmead ref [2019] EWHC 1721 raises the point that the assessment of "harm" is largely a matter of aesthetic impression on which two people familiar with the vistas described could reasonably differ, and that thereby, it is a matter of planning judgement, not a matter of expert opinion. Conversely, this does not alter my planning judgement based on the evidence provided, my observations and the individual merits of the proposal.
15. In view of the above, it follows that the proposed development would conflict with the statutory presumption under s72(1) of the Act. The proposal would also conflict with Policies 6, 40 and 41 of the Borough of Oadby and Wigston Local Plan, April 2019, (LP), which together require new development to respect the existing local and historic character. Additionally, there would be conflict with Policies 40 and 41 of the LP, as they require development to conserve and enhance conservation areas and the prevailing quality of the area. For the same reasons, the proposal would be contrary to the guidance contained in the Council's Residential Development Supplementary Planning Document (SPD), April 2019 and the Conservation Areas Supplementary Planning Document, April 2019.
16. Having regard to the scale and nature of the proposed development, in terms of the National Planning Policy Framework (the Framework) the harm to the significance of the CA would be less than substantial, which paragraph 208 of the Framework requires such harm to be weighed against the public benefits of the proposal. I turn to this in my overall heritage and planning balance below.

Living conditions of future occupants

17. The proposed flats would be in the roof space of the host building and all rooms, including habitable rooms, would solely be served by roof lights in terms of providing light and ventilation for the future occupants of the units. I observed the two existing flats within the roof space of the building are currently only served by roof lights. Additionally, I observed that the larger rooms of the existing flats¹, were not provided with good levels of natural light and, as a result, the living spaces felt oppressive and gloomy.
18. While I appreciate the layout of the proposed apartments would differ from that of the two existing flats, I find the proposal would not provide satisfactory living conditions for the future occupants in regard to natural light, particularly with

¹ Existing Flat No 8, as built, has a different internal layout to that shown on the appeal proposal existing and proposed layout plans and the plans approved under planning application ref 20/00135/FUL.

regard to the proposed larger habitable rooms that are to be served by only one roof light. Additionally, due to their high position, it would not be easy for the future occupants of the apartments to reach and open the rooflights. As a consequence, inadequate means of ventilation would be provided for the future occupants.

19. If the number of roof lights were further reduced compared to that proposed, this would consequently reduce the level of natural light and ventilation within the proposed apartments. Thereby, without any substantive evidence to the contrary, the proposed apartments would fail to provide acceptable living conditions for the future occupants of the dwelling units.
20. I acknowledge that the Council has previously granted planning permission for apartments in the roof space of the appeal building which are solely served by roof lights. However, I have assessed the proposal having regard to the individual merits of the proposed development and with the benefit of viewing the internal arrangements of the existing flats. Thereby, that a similar situation may already exist does not justify unsuitable living conditions for the future occupants of the proposed development.
21. No concerns have been raised by the Council in respect of the amount of internal floorspace to be provided for the apartments and so, it is not disputed whether they would meet the Nationally Described Space Standards (NDSS). Although, the NDSS do not refer to natural light or ventilation requirements for new dwellings.
22. The Oadby and Wigston Landscape Character Assessment (2018) identifies that there are limited opportunities for further growth in the settlement. Nevertheless, the Framework seeks to ensure that all new development, including new dwellings, create high quality, beautiful and sustainable buildings, and places, ensuring developments will function well and add to the overall quality of the area and be sympathetic to local character and history, and have a high standard of amenity for existing and future users.
23. In view of the above, the proposal would fail to provide adequate living conditions for the future occupants of the units, in respect of natural light and ventilation. Thereby, the proposal would conflict with Policy 6 of the LP, which requires, amongst other matters, that new development protects local amenity, including, resisting development that has unacceptable loss of light. Also, the proposal would be contrary to the guidance in the Council's Residential Development SPD, which requires the position of windows and/or doors to be positioned so as not to have a negative impact on the residential amenity.
24. Additionally, I find there would be conflict with the Framework, which sets out that developments should 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.

Other Matters

25. Having regard to the relevant development plan policies and evidence provided, I am satisfied the S106 Agreement is appropriate and meets the relevant tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, as amended.

26. That there is no Article 4 Direction removing permitted development rights for roof lights within the CA, under Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015, as amended, is a neutral consideration, as consent is required for the roof lights in this instance. Therefore, I have considered the proposal based on its individual merits and found the proposed roof lights would cause harm to the character and appearance of the area.
27. Even if the Council did not appropriately weigh the benefits of the proposal against the less than substantial harm that would be caused by the development, as the decision-maker, I will consider such matters in reaching my decision.

Heritage and Planning Balance

28. The proposal would provide four small residential units, above shops, which would help support the vitality of the town centre by promoting mixed uses in the area. By converting the roof space of the host building to apartments, it would promote the efficient use of land. It would contribute towards the delivery of housing supply in the area, and the choice of homes available particularly for younger, single persons, within a sustainable location. Also, there would be economic benefits relative to the construction phase and as future residents feed into the local economy. Additionally, the completed S106 Agreement would secure financial contributions toward, off-site affordable housing and public open space, which would provide public benefits to the wider area.
29. However, there are already several apartments within the host building, and nothing compelling to indicate that the vitality of the centre would be under threat in the absence of the proposal, nor that the need for smaller, low cost homes is deficient within the District. Furthermore, while the number of roof lights has been reduced, there is not clear and convincing justification for the harm that would be caused. Indeed, less than substantial harm to a designated heritage asset does not equate to a less than substantial planning objection. Rather the harm identified carries considerable importance and weight against the proposed development. Even cumulatively, the public benefits in favour of the proposal do not outweigh the harm to the significance of the CA. Conflict therefore arises with the historic environment protection policies of the Framework.

Conclusion

30. Drawing everything together, the proposal would conflict with the development plan. Material considerations, including the Framework do not indicate that the appeal should be decided other than in accordance with it.
31. Accordingly, I conclude that the appeal should be dismissed.

C Billings

INSPECTOR