



Appeal Decision

Site visit made on 2 July 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2024

Appeal Ref: APP/W2465/W/24/3339698

113 Duncan Road, Leicester, Leicestershire LE2 8EH

- 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 Mr Nitin Shah against the decision of Leicester City Council.
 - The application Ref is 20231530.
 - The development proposed is bungalow suitable for disabled use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters for consideration, except for landscaping, which is reserved for future consideration. I have had regard to Drawing No. 1768.02C but have treated the drawing as indicative, in respect of landscaping, when considering the likely impact of the proposal on the matters set out in the main issues below.
3. The National Planning Policy Framework (the Framework) was revised December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
4. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.

Main Issues

5. While the Decision Notice does not refer to the living conditions of future occupiers of the proposal with regard to outlook and light as a reason for refusal, these are matters addressed in the Officer Report and the appellant's appeal statement. I have therefore considered this as a main issue in my decision.
6. I have noted a contradiction between the Decision Notice and the Officer Report in respect of highway safety. However, it is clear from the Decision Notice that the Council considered the scheme detrimental to highway safety. My decision has been considered in line with the Decision Notice, and on that basis the main issues are:

- whether the proposal would provide safe and suitable access and parking provision for all users;
- the effect of the proposed development on the living conditions of the occupiers of 113 and 113A Duncan Road with regard to outdoor amenity space;
- the effect of the proposed development on the living conditions of future occupiers with regard to outlook and light.

Reasons

7. The appeal site comprises garden land at the rear of 111 (No 111) and 113 (No 113) Duncan Road in a residential area containing two and three storey houses. Land next No 113 has planning permission¹ (the 2019 consent) for the construction of a two and a half storey building to provide three self-contained flats. This was under construction when I visited the appeal site. As that property does not yet have an address, I have referred to it as 113a Duncan Road (No 113a) in this decision letter. The 2019 consent also granted change of use of No 113 from a single dwellinghouse to two self-contained flats and construction of a two-storey side extension which has been completed.

Safe and suitable access and parking provision

8. Access to the proposed bungalow would be located between Nos 113 and 113a, sharing the same private access to the parking areas of those properties. The width of the access narrows to a pinch point caused by the side extension of No 113. While the addition of one bungalow may only result in a small increase in traffic movements to and from the site, the narrow width of the access means that only one vehicle can access and egress the site at a time, leading to potential vehicular congestion and obstruction to the highway.
9. Furthermore, there is insufficient space within the site to turn a vehicle and the bungalow would be sited a considerable distance from the road. Consequently, drivers would have to reverse an extensive distance to exit the site while negotiating the narrow access and other vehicles and pedestrian that may be using the shared access, which would compromise the safety of all users of the access.
10. Moreover, the route to the bungalow is very close to the outdoor amenity areas serving Nos 113 and 113a. As the shared access is the only way occupiers of No 113 can access the amenity area, there is high potential for conflict between pedestrians and vehicles. Occupiers of the proposed bungalow would also have to manoeuvre bins a considerable distance for collection within the shared access, thus creating further potential for vehicular and pedestrian conflict.
11. I also note that the car parking spaces proposed for the bungalow would not meet the design standards set out in the LSDG with regard to their dimensions and layout. Accordingly, they would not be suitable for the occupiers of the bungalow and would be especially inconvenient for disabled people or wheelchair users. As a result, combined with the factors above, this would likely result in increased demand for parking on the highway to the detriment of the proper functioning of the highway. Moreover, it seems to me that it

¹ Application reference: 20191618

would be inappropriate to expect an elderly or disabled person to park at a distance from their property.

12. For these reasons, I conclude that the proposed development would not provide safe and suitable access and parking provision for all users. Hence, the proposal conflicts with Policy AM01 of the City of Leicester Local Plan (2006) (CLLP) which seeks to ensure the needs of pedestrians and people with disabilities have been successfully incorporated into the design of development, the objectives of Policy AM12 of the CLLP with regard to residential parking provision, and Policy CS15 of the Leicester Core Strategy (2014) (LCS) which expects parking for residential development to be of the highest design quality. It would also not comply with principles of the LSDG with regard to the design of parking.
13. The Council has also referred to Policy CS14 of the LCS which requires development to be easily accessible by sustainable transport modes for all users. However, this policy is not determinative on this main issue.

Living conditions of the occupiers of 113 and 113a Duncan Road

14. In order to facilitate access to the proposed bungalow, the parking and outdoor amenity areas approved under the 2019 consent would need to be altered. While there would be no overall reduction in the combined amount of outdoor amenity space for Nos 113 and 113a, the reconfigured spaces would provide a poor quality environment for their occupiers. The amenity space for No 113 would be separated from the property by a car park space and cycle store, requiring occupiers to navigate around vehicles to access the amenity space. It would also be very close to the proposed bungalow and its car parking spaces. Given the need for drivers to reverse out of those spaces, the safety of occupiers accessing the amenity space would be put at risk. The reconfigured amenity space for No 113a would also be of poorer quality due to its narrow form in part, and position close to car parking spaces.
15. For these reasons, I conclude that the proposed development would have a harmful effect on the living conditions of the occupiers of Nos 113 and 113a with regard to outdoor amenity space. This would conflict with the Framework which requires development to provide a high standard of amenity for existing and future occupiers. The Council has referred to Policy PS10 of the CLLP which relates to residential amenity and new development but does not specifically refer to outdoor amenity space. Therefore, this policy is not directly relevant to this main issue.

Living conditions of future occupiers

16. The bungalow would be sited close the boundary fence of No 111 resulting in poor outlook from, and light to, the kitchen window. While the open plan nature of the kitchen, dining and lounge space could help to mitigate the effect in terms of light, it would not overcome the poor outlook from the kitchen window.
17. Although the appellant has indicated that the siting of the bungalow could have been amended to improve the outlook, had they been given more opportunities to discuss the proposal with the Council during the planning application process, I can only base my decision on the proposal before me.

18. For these reasons, I conclude that the proposed development would have a harmful effect on its future occupiers with regard to outlook and light. Consequently, this would conflict the Framework which requires development to provide a high standard of amenity for existing and future occupiers. The Council has referred to Policy PS10 of the CLLP which relates to residential amenity and new development but does not specifically refer to outlook and light. Therefore, this policy is not directly relevant to this main issue.
19. The proposal would provide a property suitable for an elderly and/ or disabled person. These are protected characteristics under the PSED, so I have taken the benefits of the proposal to such persons into account. Nonetheless, I have identified unacceptable harm in respect of highway safety, harm to the living conditions of the occupiers of Nos 113 and 113a and harm to the living conditions of future occupiers of the proposal. These harms outweigh the benefit of providing a property suitable for an elderly and/ or disabled person. As such, it would be proportionate and justifiable to dismiss the appeal.

Other Matters

20. The suggestion that use of the appeal site as garden land for No 113 would increase the maintenance charges for tenants of that property is a private matter that has no bearing on my decision. Criticisms about Council's handling of the planning application, specifically the lack of opportunities to discuss the proposal, have also not factored into my consideration of the appeal, which I have assessed on its merits. It is also not the purpose of the appeal process to evolve a scheme and I have determined the appeal on the basis of the submissions of the parties.
21. I note that the proposal would improve the current overgrown state of the site which has a negative impact on the local environment. However, the site could be tidied up to improve its appearance, and the Council have powers to initiate this if it deems it necessary. Accordingly, the matter carries little weight.

Planning Balance

22. The proposal would provide an additional unit of residential accommodation in the area which is an, albeit limited, benefit of the scheme. Moreover, the property would provide living accommodation for an elderly and/ or disabled person. Accordingly, the proposal would add to housing choice and would provide a dwelling for a person with a protected characteristic under the PSED. However, the weight I can give to such a benefit is limited by the poor outlook and substandard access and parking space which would not provide a reasonable standard of living accommodation for any future occupier and especially for a disabled or elderly person.
23. In addition to that I have identified unacceptable harm in respect of the living conditions of the occupiers of Nos 113 and 113a. These harms significantly outweigh the benefits. Accordingly, it would be proportionate and justifiable to dismiss the appeal.

Conclusion

24. The proposed bungalow conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, the appeal should be dismissed. This action would not unacceptably violate the human rights of

the appellant and their family, or any other potential occupants with disabilities, and this would be a proportionate and justifiable decision. For the reasons given above the appeal should be dismissed.

U P Han

INSPECTOR