



---

## Appeal Decision

Site visit made on 20 August 2019 by S Watson BA (Hons) MSc

**Decision by R C Kirby BA(Hons) DipTP MRTPI**

**An Inspector appointed by the Secretary of State**

**Decision date: 9 October 2019**

---

**Appeal Ref: APP/W2465/W/19/3230933**

**52 The Wayne Way, Leicester, LE5 4NT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Greenwood against the decision of Leicester City Council.
  - The application Ref 20182521, dated 16 November 2018, was refused by notice dated 21 January 2019.
  - The development proposed was described as the 'demolition of garage; construction of 2 storey building to form 2 self contained flats (2x1 bed) (class C3); parking, amenity and bin and cycle store'.
- 

### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Application for Costs

3. An application for costs was made by Mr & Mrs Greenwood against Leicester City Council. This application is the subject of a separate Decision.

### Main Issues

4. The main issues in this case are the effect of the proposal on:
  - the character and appearance of the area, with regard to design and siting;
  - the safety of those using the pavement to the front of the site, by way of the use of the new parking area; and,
  - whether suitable accommodation would be provided for future occupants, with particular regard to external space.

### Reason for the Recommendation

#### *Character and Appearance*

5. The appeal site is on the north side of The Wayne Way, near the junction with Deepdale, within a large residential estate. The site contains a semi-detached two-storey dwelling, to the west of which is a garden and a semi-detached

garage which connects to a neighbouring garage. The proposal includes the demolition of the appellant's portion of the garage and the erection of a two-storey building, containing two flats, within this side garden area.

6. The proposed building would be in a prominent location at the junction with Deepdale and would fill in a visually open area to the side of No 52 The Wayne Way. The open area is reflected on the other side of the junction and forms an attractive landscaped entrance to Deepdale.
7. The appeal proposal would as a result of its siting and design result in a significant reduction in the openness of the area and would unbalance the open entrance to Deepdale and the contribution that the appeal site makes to the quality of the area would be significantly diminished as a result. Moreover, the plot size of the new flats would be significantly smaller than that of the host dwelling and nearby residential properties and would as a result harm the grain of development and legibility of the area. Cumulatively, the design and siting of the proposal would result in harm to the character and appearance of the area.
8. I acknowledge that the proposed flats would appear similar, in their design and form, to No 52. However, the scheme has little regard to the context of the host dwelling against which it would be read in direct relation. In light of the issues above and that the building would be detached, the proposal would be an unconvincing reproduction of the surrounding area and would appear an incongruous and intrusive feature within the street scene.
9. In all, the proposal by way of its design and siting, would be out of keeping with the surrounding properties and area. In this way the proposal would harm the character and appearance of the area and would conflict with saved Policy H07 of the City of Leicester Local Plan (LP), Policy CS3 of the Leicester City Local Development Framework: Core Strategy (CS) and paragraph 127 of the National Planning Policy Framework (the Framework) which collectively seek development to contribute positively to an area's character and appearance.

#### *Highway Safety*

10. The amended parking plan submitted as part of the application shows four parking spaces, two for No 52 and two shared between the proposed flats. It would involve alterations to the existing dropped kerbs in order to provide access to all four spaces.
11. The parking spaces, as shown on the submitted plans, would be of a size which would be suitable for a typical motor vehicle. It would be unlikely that vehicles parked within the spaces would overhang the pavement or cause an obstruction or safety issues to pedestrians using the pavement. Although there would be one diagonal parking space serving No 52, this would not in itself be likely to result in an adverse impact on the safety of the highway as motorists entering and leaving the space would be able to see pedestrians using the pavement, and vice versa. It is noteworthy that the Highway Authority viewed the amended plans to be acceptable subject to conditions being applied in the event of an approval.
12. In light of the above, I find that the proposal would not adversely affect the safety of highway users, particularly pedestrians using the pavement to the front of the appeal site. The proposal would accord with Policies AMO1 and

AM12 of the LP and Policy CS14 of the CS. Amongst other matters these policies require development to provide suitable and safe parking.

### *Living Conditions*

13. The garden area at the rear of the proposed new building would be shared between the two flats as a communal space. The garden would be significantly larger than the Council's requirement of 1.5m<sup>2</sup>, as set out in the Leicester City Council Supplementary Planning Document: Residential Amenity (SPD). This area would provide space for bicycle and bin storage.
14. Given the space between the proposed garden and the neighbouring dwelling at No 80 Deepdale which would maintain some openness, I consider that the shared garden would not be unacceptably affected, such as by an overbearing impact or overshadowing from the two-storey dwellings surrounding it. Moreover, given the size of the flats, both one-bedroom properties, it is unlikely that future occupants would include families or that there would be substantial use of the garden.
15. Therefore, I consider that the proposed garden serving the ground and first floor flats would provide an acceptable level of amenity and meet the requirements of Policies PS10 and H07 of the LP which, amongst other things, seek where practicable, the provision of communal open spaces.

### **Other Matters**

16. Several examples of planning permissions granted by Leicester City Council have been set out within the appellants' statement of case, as well as a concern that there is a lack of consistency between decisions made by the Council. I do not have sufficient information before me to ascertain whether the circumstances of each are directly comparable to the current proposal, or to comment on consistency between decisions. Nevertheless, all proposals need to be considered on their own merit.

### **Planning Balance and Conclusion**

17. There is no dispute that the Council does not have a 5-year supply of deliverable housing land. The Framework at paragraph 11 d) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, that planning permission should be granted unless the circumstances set out in paragraph 11 d) i. or ii. apply.
18. In this case, the planning application was not refused against any spatial strategy policies, and indeed the principle of development in this urban area is not in dispute. However, the policies which are most important for determining this appeal, identified above, are consistent with the Framework and therefore are not out of date. As such the tilted balance given by paragraph 11 of the Framework is not applicable in this case.
19. Even if I had agreed with the appellant on this matter, and found that the tilted balance was applicable, the harm that would be caused to the character and appearance of the area would, in any event, significantly and demonstrably outweigh the benefits of the proposal, when assessed against the Framework taken as a whole. The proposal would not therefore comprise sustainable development.

20. For the reasons given above I recommend that the appeal should be dismissed.

*S Watson*

APPEAL PLANNING OFFICER

**Inspector's Decision**

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be dismissed.

*RC Kirby*

INSPECTOR