



Appeal Decision

Site visit made on 18 March 2025

by **P Barton BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

Appeal Ref: APP/W2465/W/24/3356113
120 Cavendish Road, Leicester LE2 7PH

- 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 Patel against the decision of Leicester City Council.
 - The application Ref is 20240729.
 - The development proposed is creation of second floor new flat (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a minor revision to the National Planning Policy Framework (the Framework) on 7 February 2025. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought comments on the minor revision to the Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the host building and surrounding area; and
 - whether the proposed development would provide acceptable living conditions for future occupiers, with regards to the provision of private amenity space.

Reasons

Character and appearance

4. The appeal property is a flat roofed, 2-storey detached building with facing brickwork. The property has been previously converted to self-contained flats that are accessed via a centrally located communal entrance to the front elevation. There is a modest set back from the pavement, that I observed being used to park vehicles. To the side of the building is a gated access leading to a commercial unit and associated yard behind, that appears to be used for the manufacture of windows and doors. Much of this yard is being used for the external storage of materials, including glass panes. To the immediate rear of the appeal building is a small area that is partially enclosed with high fence panels. I understand that this is the private amenity space for the existing flats. However, it was not clear if it is

being used for that purpose as there was a fence panel and a gate lying across the area and no sign of any domestic paraphernalia.

5. The immediate neighbouring properties to the site consist of a 2-storey commercial unit and 2-storey houses. Cavendish Road is predominantly a traditional terraced street with 2-storey houses positioned to the back of the pavement. Amongst these are a number of commercial buildings that have been converted to residential accommodation as well as modern housing developments that range from 2.5 to 4-storeys in height. This gives the character and appearance of the street some variety.
6. The proposal would create an additional floor in the form of a flat roof extension to create a 1-bedroom flat and an overall height of 3-storeys to the building. The extension would be set back and use a different external material. However, the design of the extension, and particularly the roof's large overhang, would result in a dominant and out of proportion addition to the host building. This would be further compounded by the size of the full-height openings, that would not reflect the window proportions of the existing building. Consequently, the proposal would represent a top heavy and overbearing addition that would be highly visible from Cavendish Road and surrounding properties, leading to a harmful effect on the existing building and the wider street scene.
7. For the above reasons, the proposal would be detrimental to the character and appearance of the host building and surrounding area. This would conflict with Policy CS03 of the Leicester City Local Development Framework Core Strategy (CS), which expects high quality and well designed developments that contribute positively to the character and appearance of the built environment.

Living Conditions

8. I am mindful of a previous appeal¹ at the site, for a pitched roof and the creation of a flat. In their decision, the Inspector identified harm with the existing private amenity space. They concluded that it would not be suitably positioned or laid out to promote that it functions as a high-quality useable facility for any future occupier of the proposed second floor flat. From my own observations, and in the absence of any contrary evidence before me, I have come to the same conclusion that the existing private amenity space is not suitable for future occupiers of the proposal.
9. The Council's Residential Amenity Supplementary Planning Document (RASPD) seeks a minimum of 1.5 square metres of private amenity space per 1 bedroom flat, in the form of a balcony or shared space that should be practical and useable. No private amenity space is shown for the current proposal and as highlighted above, the existing private amenity space to the rear of the building is not suitable for the future occupants of the proposed flat. The appeal site does include the wider yard serving the existing commercial unit behind the appeal building. However, this is not suitable either for use as private amenity space due to the external storage of materials and the parking of vehicles.
10. I recognise that the proposed development indicates full height windows to the front elevation of the rooftop extension and reference has been made to the creation of amenity space around the outer perimeter of the flat. However, that is not clearly shown in the details before me and there are no details of a balustrade,

¹ Appeal Ref: APP/W2465/W/21/3277177

or similar, that would be required to make this space useable. I have considered the appeal based on the plans and details submitted with the planning application.

11. Consequently, the lack of suitable private amenity space would adversely affect the living standards of future occupiers of the proposed development. The proposal would not comply with Policy CS03 of the CS and the RASPD, which require the creation of buildings and spaces that are fit for purpose and create a satisfactory living environment.
12. The Council's decision notice refers to saved policy PS10 of the City of Leicester Local Plan (CLLP). However, this policy relates to residential amenity and new development, with particular regard to; noise, light, vibration, smell, air pollution, visual quality including potential litter problems, additional parking, vehicle manoeuvring, privacy, overshadowing, safety, security, ability to assimilate development and access to facilities. The evidence before me and my own conclusions do not find harm against these matters and therefore the proposed development would not conflict with policy PS10 of the CLLP.

Other Matters

13. Whilst the Council did not raise any objection to the proposal in terms of flood risk, parking, and refuse and cycle storage or the Nationally Described Space Standards, these are all matters which do not weigh in favour or against the proposal. As such, they have a neutral effect on the planning balance.
14. I also note the appellant's concern over the Council's handling of the application. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.

Planning Balance

15. The Council has an emerging development plan, the Leicester Local Plan 2020-2036, and the examining Inspectors have made post hearing comments. Subject to agreed changes and consultation on these, the examining Inspectors are satisfied at this stage, that it is capable of demonstrating a 5-year supply of housing land. Due to the stage of the preparation of the emerging plan, the extent and nature of the unresolved objections and consistency with the Framework, I give this material consideration moderate weight in the planning balance.
16. Notwithstanding this, the Council have indicated that they currently do not have a 5-year supply of deliverable housing sites and, as per footnote 8 to paragraph 11 of the Framework, relevant development plan policies are taken to be out of date. Therefore, paragraph 11 d) of the Framework identifies that planning permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
17. The proposed development would make a positive contribution to housing supply in a location with good access to public transport links and facilities. However, the scale of the development means that the contribution in the above regard would be limited. As such, I afford the benefits listed above, in the context of the shortfall in housing land supply, only moderate weight in favour of the proposed development.

18. On the other side of the balance, there would be harm to the character and appearance of the host building and the surrounding area, as well as to the living conditions for future occupiers of the proposal. I give significant weight to the conflict with Policies CS03 of the CS and the RASPD, which are consistent with the Framework in ensuring that development is of a high design quality, sympathetic to local character and creates a high standard of amenity for future users.
19. Therefore, I conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

20. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

P Barton

INSPECTOR