
Appeal Decision

Site visit made on 20 May 2025

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 June 2025

Appeal Ref: APP/X2410/W/25/3361349

41 Arthur Street, Loughborough LE11 3AY

- 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 Mubeen Patel of VSHF Loughborough Ltd against the decision of Charnwood Borough Council.
 - The application Ref is P/24/1532/2.
 - The development proposed is the sub-division of dwelling and single-storey rear extension to create 2no. two-bedroom flats.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for a full award of costs was made by Mr Mubeen Patel of VSHF Loughborough Ltd against Charnwood Borough Council. This is the subject of a separate Decision.

Preliminary Matters

3. The application form description of development states: “*Conversion and extension of existing dwelling to form 2 x 2 bedroom dwellings.*” The decision notice and appeal form provide a more precise description, which I have therefore replicated in the banner heading above.
4. The application form states that the works were completed in 2021. However, my site visit identified that although the rear extension appears complete, the properties are not internally laid out in accordance with the submitted plan. Flat 1 has an unfinished basement area, with no evidence of plumbing/pump to facilitate the proposed laundry facilities, or walls and floors in a suitable condition for regular access. Flat 2 has a bedroom where the plan identifies a kitchen, and a combined kitchen/living/bedroom rather than a separate further bedroom, with some discrepancies in the position of the walls. For the avoidance of doubt, I have therefore determined the scheme based on the submitted plan.
5. A revised plan version was submitted for the appeal (Existing and Proposed Planning Drawings LTD358 10 Rev B). As this only added basement area annotation and corrected a floorspace error, no parties would be prejudiced by accepting it as the basis for this appeal.
6. The relevant part of the extant development plan comprises the Charnwood Local Plan Core Strategy 2011 to 2028 (CS). The Council expects the emerging Charnwood Local Plan 2021-2037 (ELP) to be adopted by in 2025, following

examination hearing sessions in early April 2025. Its Policies H3 and Policy DS5 have been put before me as most relevant.

Main Issue

7. The main issue is the effect of the proposed development on the living conditions of its future occupiers, with particular regard to internal floor space standards.

Reasons

8. The site is a mid-terrace property within a street comprising a row of terraced houses on each side, proximate to Loughborough town centre. Originally a single house, external works have removed outbuildings and added a rear single storey extension, created a new rear entrance, and inserted a rooflight. The Council has no objections to these physical changes in terms of character and appearance, and I see no reason to conclude differently. Internally, the property has been divided into two maisonettes, termed Flat 1 and Flat 2, utilising the existing basement within Flat 1, and extending into a new second floor within Flat 2.
9. The Nationally Described Space Standard (NDSS) sets requirements for the Gross Internal Area (GIA) of new dwellings at a defined level of occupancy, as well as floor areas and dimensions for key parts of the home. The ELP Policy H3 specifically seeks compliance with the NDSS for all new homes.
10. The parties agree that the sizes of the Flat 1 bedrooms would be a single and a double, and so allow for a maximum occupancy of 3 persons against the NDSS. The NDSS thus requires a minimum of 70sqm GIA in total for a 2 storey dwelling. Flat 1 proposes 55sqm ground floor and 18sqm basement, being 73sqm overall.
11. The Council considers that the basement's low ceiling height, inadequate levels of light and ventilation, and likely use only for storage, indicate that it cannot contribute towards the total amount of habitable accommodation. Excluding the basement, the overall GIA would thus be 6sqm below the NDSS minimum of 61sqm for a 1 storey flat.
12. The basement floorspace would equate to 24.7% of the whole property. The basement ceiling height would only be 1.85m, but the NDSS criterion (i) states that the minimum floor to ceiling height must be 2.3m for at least 75% of the overall GIA. Criterion (i) would therefore be met, albeit only by a negligible margin.
13. The basement would be used as a utility room, which the appellant contends is not usually regarded as a 'habitable' room for planning purposes, in a similar manner as for a corridor or a bathroom. As such, it is unnecessary for to be served by windows for natural light and ventilation.
14. The Planning Drawing identifies that the basement would have mechanical ventilation of 30l/s operated via light switch with 15 mins overrun, with light and ventilation to meet Building Regulations. It would have a refurbished lightwell window, and a cavity drained basement waterproofing system with pumped drainage, including a pump with saniflow to pump grey water from a washing machine and tumble dryer. I found the basement to be uninviting at present, due to its unfinished condition including down the stairs, head height pipes across the bottom of the stairs, poor natural light and ventilation, and unfinished floor and wall coverings. However, with these measures in place it would become a usable utility and laundry area, and provide additional storage.

15. Moreover, the ELP Policy H3 does identify that the NDSS will be applied having regard to any evidence provided regarding site-specific factors. In this instance, the basement is an existing space. The total size of Flat 1 would be 3sqm more than the NDSS. Overall, I therefore find that Flat 1 would comply overall with the NDSS and ELP Policy H3, albeit only just with regard to criterion (i). In this regard, I note that if the proposed works were not completed to a suitable standard, including as required by the Building Regulations, then the proposal would not meet the NDSS and the relevant policies. Were I to allow this appeal overall, a condition would therefore be necessary to ensure that these works take place.
16. With regard to Flat 2, bedroom 1 would be 18sqm, and bedroom 2 would be 15sqm with more than 1.5m headroom. The NDSS requires a double bedroom to have a floor area of at least 11.5sqm. The Council therefore considers that both bedrooms exceed this level, and so Flat 2 should be assessed against the NDSS based on a 2 bedroom 4-person occupancy.
17. With both bedrooms being significantly larger than the minimum double bedroom size, I see no rationale to count either only as a single bedroom, despite this being noted on the Planning Drawing. The NDSS intention is that the size of the bedroom determines how occupancy is defined, such that a bedroom exceeding 11.5sqm should always be counted as a double bedroom (subject to minimum room widths).
18. The appellant considers it would be reasonable to restrict the overall occupancy to 3-person, as suggested in the Council's example condition submitted for the appeal, and that there must be many instances of this arrangement because the NDSS allows for 3-person dwellings.
19. However, no permitted examples or appeal examples have been provided to me. I find that restricting Flat 2 to a 3-person occupancy would not be reasonable or enforceable. This imposition would leave the proposal unable to function in practical terms as a typical dwelling would. For example, the appellant has not addressed scenarios such as if couple with a child had another baby, or how a friend or partner could stay over without breaking the condition. I find it likely that the condition could conflict with aspects of human rights such as peaceful enjoyment of possessions, and respect for occupants' private and family life and home.
20. As Flat 2 would be 2 storey and able to accommodate 4 persons, the NDSS thus requires it to have a minimum of 79sqm GIA in total. It would provide 54sqm at first floor plus the second floor and storage, equating to 70.25sqm overall.
21. The appellant suggests that Flat 2 could serve a couple with two small children for some years without causing any actual harm to their living conditions, such as using bunk beds to still allow space to play. However, this is not a scenario allowed under the NDSS, nor would this address the resulting issue when those children grow up and require more space. The NDSS is based on provision of suitable space for all stages of family living.
22. I also note that the NDSS is a minimum level of space deemed to provide acceptable living conditions for future occupants, rather than being a maximum to aim for or an inherently generous provision of space. The National Planning Policy Framework ('the Framework') (2024) paragraph 135 reiterates the aim for developments to promote health and well-being and have a high standard of

amenity for existing and future users. The Flat 2 space deficiency would be relatively substantial, and harmful.

23. Overall, the proposed development would provide its future occupiers with harmful living conditions, regarding the limited internal space within Flat 2 as assessed against the NDSS. Flat 1 would only just meet the requirements and so would not mitigate or outweigh this Flat 2 harm. The proposal as a whole would therefore conflict with the CS Policy CS2, which amongst other matters, requires high quality inclusive design that protects the amenity of those who will live in the new development. It would also conflict with the ELP Policy H3 with relation to conflict with the NDSS, and with the ELP Policy DS5, which again aims to protect the amenity of the future occupiers. I give these policies substantial weight considering the advanced stage of the ELP and their consistency with the Framework.

Other Matters

24. The property lies within the Queens Park Conservation Area (CA), and so I have a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. Section 16 of the Framework also requires that great weight should be given to the conservation of designated heritage assets. The CS Policy CS14 and the ELP Policy EV8 reinforce these objectives. The significance of the CA lies in its three distinct areas; the historic Queen's Park; the former industrial, commercial and residential area of Ward's End dating back to the Georgian period; and a small residential area of Edwardian terraced houses, including Arthur Street hosting this appeal. The CA contains many notable buildings, principally from the late Victorian and Edwardian periods.
25. The rear extension is small, single storey, and in keeping with the existing and neighbouring dwellings in materials and form. It does not appear prominent or incongruous in the street scene. Given this, the significance of the CA would be preserved, and no policy conflict is identified.
26. The Framework seeks to significantly boost the supply of homes. Whilst the proposal would result in the loss of a 3-bedroom home, the area also has a strategic need for 2-bedroom homes. As such it would contribute to the local mix of homes, and would comply with the CS Policy CS3 and the ELP Policy H1. An additional dwelling in this accessible location would therefore make a positive contribution to the housing supply, although one of minor scale, and set within the context that the Council can demonstrate in excess of its required 5 year housing supply. There would also be small-scale economic and social benefits associated with the occupation of two dwellings. I cumulatively give the benefits minor weight.

Conclusion

27. The proposal conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, including the proposed benefits, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR