



Appeal Decision

Site visit made on 12 August 2025

by **D J Barnes MBA BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 August 2025

Appeal Ref: APP/X2410/W/25/3366840

10 Brook Street, Shepshed, Leicestershire LE12 9RG

- 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 Chris Jordan against the decision of Charnwood Borough Council.
 - The application Ref is P/24/2359/2.
 - The development proposed is the erection of a single dwelling and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling and associated works at 10 Brook Street, Shepshed, Leicestershire LE12 9RG in accordance with the terms of the application, Ref P/24/2359/2, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 24.4432.03A and 24.4432.04
 - 3) The development hereby permitted shall not be constructed above ground level until details of the external materials of the dwelling have been submitted to and approved in writing by the local planning authority. The details shall include samples of facing brick work and method of bonding; samples of roof tiles and details of the fenestration. The development shall be carried out in accordance with the approved details.
 - 4) The development hereby permitted shall not be constructed above ground level until details for the erection of an integral bird box or bat roost box into the approved dwelling has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the occupation of the dwelling and shall be retained thereafter.
 - 5) The dwelling hereby permitted shall not be occupied until the cycle parking provision and bin storage facility as shown on Plan No. 24.4432.03A shall have been constructed and available for use by the occupiers of 10 Brook Street and the proposed dwelling. The cycle parking provision and bin store shall be retained thereafter for these uses.

Procedural Matter

2. The site visit was undertaken on an unaccompanied basis.

Main Issue

3. It is considered that the main issue is the effect of the proposed development on the living standards of the future and existing occupiers.

Reasons

4. The proposed development includes the erection of a single storey dwelling within the rear surfaced courtyard of a 2-storey building which is occupied as flats. The existing property is 10 Brook Street. The proposed dwelling would be sited adjacent to the rear boundary of the courtyard with the remainder of the courtyard continuing to be used for parking and the siting of refuse containers associated with the flats.
5. There are habitable room windows at both ground and first floor levels within the rear elevation of No. 10. By reason of a 2-storey rear projection at the rear, the separation distances between the proposed dwelling and the rear elevation of No. 10 vary between about 13.8 metres and circa 16.8 metres.
6. The council's *Design Supplementary Planning Document* (SPD) includes guidance whereby if rear building elevations contain main habitable room windows, then 21 metres should be used as the separation distance between 2-storey dwellings to protect the loss of privacy. There is not a specific distance referenced as guidance for the relationship between a single storey and a 2-storey dwelling but the council consider that the 21 metres identified in the SPD should be adopted. However, as identified in the SPD, the separation distance of 21 metres is only guidance and cannot address all the planning circumstances of a particular proposal.
7. The appellant has identified that there would be a 1.8 metre high brick wall erected as a means of enclosure to separate the proposed dwelling from the remainder of the courtyard. The proposed private amenity area sited to the front of the dwelling would be enclosed by this wall.
8. From the proposed dwelling, the outlook of the future occupiers would be restricted by the proposed wall in terms of overlooking the occupiers of the flats at No. 10. It would be difficult for the future occupiers to see directly into the first floor habitable room windows of No. 10 which would otherwise result in an unacceptable loss of privacy for the existing occupiers of these flats. The current relationship between the ground floor habitable room windows of No. 10 and the courtyard would not be affected by the proposed development.
9. The proposed wall would afford some screening and thereby provide privacy for the future occupiers of the proposed dwelling, particularly from the retained courtyard and the ground floor habitable room windows of No. 10.
10. Within urban areas, some degree of overlooking can be expected between residential properties, especially in the outlook from first floor windows. There would be an outlook towards the proposed dwelling's front elevation and its amenity area from the first floor windows of No. 10. It is the front elevation of the dwelling which would include the proposed habitable room windows. However, because of the proposed dwelling's location and type, together with the siting and height of the proposed wall, there would be an appropriate degree of privacy for the future occupiers of the appeal scheme. In reaching this judgement account has been

taken of the council's claims about the internal floor level of the proposed dwelling being higher than the external ground level.

11. For the reasons given, it is concluded that the proposed development would not result in unacceptable living standards of the future and existing occupiers and, as such, it would not conflict with Policy CS2 of the Charnwood Local Plan 2011 to 2028 Core Strategy and Policy EV/1 of the Borough of Charnwood Local Plan. Amongst other matters, these policies seek to protect the amenity of people who live nearby and those who will live in the new development; particularly the privacy enjoyed by adjoining residential areas.
12. There would also not be a conflict with Policy DS5 emerging Charnwood Local Plan 2021-37 which echoes the extant development plan policies. Although not yet adopted, this policy is given significant weight given the stage which has been reached in the preparation of the plan and the outstanding matters at the examination not relating to design considerations.

Other Matters

13. The appeal site is located within the Shepshed Conservation Area but the council has not identified that the proposed development would fail to preserve the character and appearance of this area. Further, no significant harm to the heritage significance of this designated area has been identified by the council. The development shall be carried out in accordance with the approved details. There are no reasons to disagree with the council's assessments of these matters, including, if this appeal succeeds, the submission of the details of the external materials to be used in the construction of the proposed dwelling so that the development would complement the character and appearance of the Conservation Area.
14. The council has assessed that the proposed development is exempt from the mandatory requirements of Biodiversity Net Gain but has identified the potential opportunity for the erection of a bat or bird box to secure some biodiversity gain reflecting national and local planning policies. Such a biodiversity gain could be secured by an appropriate condition of this appeal succeeded.

Conditions

15. The council has suggested conditions in the event that this appeal succeeds which have been assessed against the tests identified in the National Planning Policy Framework and the Planning Practice Guidance. For reasons of clarity, a condition is necessary to identify the approved drawings.
16. As identified, the suggested conditions concerning the approval of external materials and securing an element of biodiversity gain would be appropriate and necessary. A condition to secure the erection of the bin storage and cycle parking provision is also necessary to ensure that the appropriate provision is made for the existing occupiers of No. 10 and future occupiers of the proposed dwelling.
17. Accordingly, it is concluded that this appeal should be allowed.

D J Barnes

INSPECTOR