



Appeal Decision

Site visit made on 18 August 2025

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 September 2025

Appeal Ref: APP/W2465/D/25/3368437

25 Rotherby Avenue, Leicester City LE4 6HA

- 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 R Deugi against the decision of Leicester City Council.
 - The application Reference is 20250406.
 - The development proposed is described as the 'construction of single storey extension and ramp at front, single storey extension at rear of house; alterations (Class C3).'
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Decision

1. The appeal is allowed and planning permission is granted for construction of single storey extension and ramp at front, single storey extension at rear of house; alterations (Class C3); in accordance with the terms of the application Ref 20250406, dated 4 June 2025, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the approved drawings listed below:
 - 'G F Proposed,' Drawing No: 2025/03/53/A, Dated 18/03/2025;
 - 'Ramp,' Drawing No: 2025/03/53/A, Dated 18/03/2025;
 - 'Proposed Elevations – Front and Side,' Drawing No: 2025/03/53/A, Dated 18/03/2025;
 - 'Proposed Elevations – Rear and Side,' Drawing No: 2025/03/53/A, Dated 18/03/2025;
 - 'Proposed Site Location Plan,' Drawing No: 2025/03/53/A, Dated 18/03/2025;
 - 2) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matters

2. I have taken the description of the proposal from the Council's Decision Notice which more concisely describes the elements requiring consideration. This description is also reflected in the Appellant's Appeal Form. I shall make my decision on this basis.
3. I note reference in the Council Officer's report with regards to a rear extension that according to the Council has been erected without planning permission. It is not for me under a Section 78 appeal to determine the current correct and legal development of the existing building. I have therefore made my decision on this

basis of the existing conditions and to the development plan and relevant material considerations. To that end it is open to the Council to pursue enforcement action, or for the appellant to apply for a determination under sections 191/192 of the Town and Country Planning Act if they believe the lawful development is different. My determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.

Main Issues

4. The main issues are the effect of the proposed development upon:
 - The character and appearance of the host building including the surrounding locality; and
 - The living conditions of No. 27 Rotherby Avenue, with particular regard to sense of enclosure and outlook.

Reasons

Character and Appearance

5. The appeal site is located along Rotherby Avenue, a residential cul-de-sac in each direction that forms off Ragdale Road. Rotherby Avenue forms one of a number of streets in the local area that contains formally laid out speculative housing which appears to date from the early to mid twenty-first century. Unlike the semi-detached dwellings in surrounding streets, Rotherby Avenue is lined on both sides and to the ends with groups of terraced housing ranging in groups of 4-6 dwellings. The dwellings along Rotherby Avenue which includes the appeal site are laid out with similar front setbacks with front gardens, (many of which are now paved) and small rear gardens. Unfortunately there is a lack of vegetation in the area, with some vegetation being visible with tops of trees in rear gardens being visible between gaps between terraces.
6. The Appeal site is an end terraced property in a group of six dwellings (No.s 15-25 odd) which is setback behind the general line of terraced dwellings, such as the adjoining terrace of dwellings (Nos 27-37 odd). The terrace is two storeys, brick construction with London brick to first floor and red brick to ground floor, the appeal site and opposite terrace end having a hipped concrete tiled roof. To the ground floor there is a single storey enclosed porch that is shared with No.23. To the rear of the site there is a small rear garden that is paved, a small lean-to enclosed extension and a partly open pergola type structure.
7. In assessing new development the Leicester City Council Core Strategy (CS) Policy CS03 is a design led policy which has a number of design criteria to adhere to such as being high quality, well designed, respond positively to the character of the area in terms of materials, height, scale, and massing, amongst others.
8. Beginning with the front extension this would elongate the forward projection of the front porch that would enable a greater turning circle for a wheelchair, along with a ramp with handrails. Given that there is symmetry across the terrace and with No.s 23 and 25 sharing the front porch design, the further projection forward whilst, proportionate to the existing dwelling would give an asymmetrical appearance which would be detrimental to the overall character and appearance of the terrace and host building. The installation of the ramp to the front of the extension would

not be like anything else in the locality, and would project further forward from the dwelling, to be in line with the bay window of the adjacent neighbour at No.27. The harm caused to the character and appearance of the building is somewhat mitigated by the use of materials and the proportions of the extension, however when compared to the remainder of the terrace, the proposed front extension would cause harm to the character and appearance of the existing dwelling, including the greater locality.

9. Turning to the rear extension, the existing lean-to enclosed and open structure as mentioned previously would be removed and an enclosed extension created in its place to the rear with a depth of 6 metres and at a lower height than existing. The extension adjoins the single storey extension of No.23, and is setback from the boundary of No. 27. The rear extension would have a flat roof which would reduce height and be generally proportionate to the host building and is a simple and functional appearance that does not dominate the existing building and allows the original and the extension to be appreciated together. As such the proposed rear extension would be generally appropriate.
10. Taking the above into account, whilst the rear extension would be compliant with CS Policy CS03, the front extension including ramp would cause harm to the character and appearance of the dwelling and the locality. Consequently, this element of the proposed scheme would be made contrary to CS Policy CS03 as previously described.

Living Conditions

11. The neighbouring dwelling at No.27 Rotherby Avenue is also an end terraced dwelling but with the rear façade set forward from the rear façade of the appeal site. The neighbouring dwelling has a single storey rear extension, but a relatively long garden. The proposed rear extension would have a flat roof that would be at a lower height than current lean-to roof of the rear extension which assists in reducing the massing and form of the extension when experienced from the rear of No.27 Rotherby which has an adequate level of access to sky from the rear garden. An extension such as this is typical and expected for many rear gardens and would not be out of place in this particular context. As the garden is relatively long and adjoining development low in height, there would be sufficient outlook towards the rear from use of the neighbouring garden and from within the conservatory. Whilst I agree with the Officer's Report there would be some loss of outlook, it would not be to a level where it could be considered 'significant' and I therefore disagree with the Planning Officer's report that there would be significant harm caused by loss of outlook of this neighbouring property's rear garden space. As such, the increase in built form to the rear would not be excessive given that adequate exposure of the rear garden to a good sense of outlook is still achievable.
12. Taking the above into account, I disagree that the proposed rear extension would result in excessive harm to living conditions as a result of sense of enclosure or outlook. Consequently, the proposed scheme is made in accordance with the City of Leicester Local Plan Saved Policy PS10 which seeks to ensure that development does not result in an unacceptable loss of amenity.

Material Considerations

13. I note that there is discussion within the appeal documents along with the floor plans and a letter from the NHS¹ for the reasoning of the front and rear extension that enables for the better care needs of a child resident at the property. The extension would facilitate a tailored bedroom, bathroom and circulation space to cater for the child. The extension does not appear excessive in this respect and is planned around the specific care needs of the child.
14. I am willing to consider the needs of the Appellant as a material consideration, particularly as I recognise that this appeal needs to consider the appellant's rights under Articles 8 and 14 of the European Convention on Human Rights or Human Rights, as incorporated by the Human Rights Act 1998; and additionally United Nations Convention on the Rights of a Child Article 3 (1). Section 149(1) of the Equality Act 2010 (EA2010) imposes the 'public sector equality duty' (PSED) on 'a public authority...in the exercise of its functions'. The PSED means that in the exercise of their functions a planning authority needs to have due regard to three aims, namely to eliminate discrimination, harassment, victimisation; advance equality of opportunity between persons with protected characteristics; and to foster good relations between persons who do/don't share protected characteristics.
15. Having considered the benefits that the proposed scheme would deliver to the Appellant and the best interests of the child, I attach significant weight to the Appellant's Human Rights, the rights of a child and the PSED as a material consideration to the determination of this scheme. Therefore, and in conclusion of this matter; whilst the proposed front extension would conflict with the development plan, this is outweighed by other material considerations as explained above.

Conclusion and Conditions

16. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be allowed and planning permission granted, subject to the conditions as detailed previously.
17. The Council in their Appeal Form response detailed that should the appeal be allowed, that conditions regarding time limit, approved plans and materials which match existing be placed on any decision notice. I have considered the conditions as specified in the beginning of this letter in accordance with the Planning Practice Guidance (PPG). Conditions 1 and 2 are standard conditions which set the standard time limit and approved plans which are necessary for the avoidance of doubt and in the interests of proper planning. Condition 3 seeks that the scheme is constructed in matching materials which is necessary as this condition enables the development to fit in with the character and appearance of the existing dwelling and the locality.

J Somers
INSPECTOR

¹ Letter from Georgia Thorne, University Hospitals of Leicester, Dated 19/06/2025