



Appeal Decision

Site visit made on 1 July 2025

by **A O'Neill BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th September 2025

Appeal Ref: APP/X2410/W/25/3364232

6 Gisborough Way, Loughborough, Leicestershire LE11 4FU

- 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 Ms Lois Tierney against the decision of Charnwood Borough Council.
 - The application Ref is P/24/1240/2.
 - The development proposed is the erection of a new one bedroom bungalow.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Lois Tierney against Charnwood Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council's reasons for refusal refer to the policies in the emerging Charnwood Local Plan 2012-37 (the emerging LP). The Council's Statement of Case confirms that, since the determination of the application, the final Local Plan hearing was held, and that consultation on further main modifications will be undertaken only on policies which are not relevant to this appeal. Based on the information before me, I give significant weight to the policies in the emerging LP referred to in the Council's reasons for refusal, in accordance with paragraph 46 of the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether it would provide acceptable living conditions for future occupiers, and the effect on the living conditions of the occupiers of 7 Byland Way; and,
 - whether the proposal would provide an adequate level of biodiversity net gain (BNG).

Reasons

Character and Appearance

5. The appeal site is located in a residential area characterised predominantly by detached 2 storey dwellings, although there are some single storey dwellings in

the vicinity of the appeal site. There is some variety in the size and shape of plots, but the prevailing form of development surrounding the site is of regularly spaced dwellings sited towards the front of their plots with generous rear gardens, giving the area an open and spacious feel.

6. The site is located to the side of 6 Gisborough Way and to the rear of 7 Byland Way. The appellant describes it as derelict land, however the Council has confirmed that the approved use of the site is as the rear garden for 7 Byland Way. I understand the site is, however, within separate ownership and a fence has been erected between the two properties. Notwithstanding its ownership, and even though the site is currently enclosed with tall fencing, in its undeveloped state, the site provides a visual gap between existing built development and contributes positively to the spacious layout of the area.
7. The proposal would result in two plots which would be smaller than others in the area. As a result, the garden area for the proposed dwelling and the remaining garden area for 7 Byland Way would be smaller than is typical in the area. The two plots would appear cramped, particularly when viewed in the context of surrounding properties which have generous plots and spacious rear gardens.
8. Furthermore, the remaining garden area for 7 Byland Way would be located to the side of the dwelling, with no space provided to the rear. This would be at odds with the prevailing layout of development in the area where I observed garden spaces are predominantly located to the rear of dwellings.
9. The small plot size would mean the proposed dwelling would appear shoehorned between the adjacent built development. This would be particularly pronounced given the close proximity of the proposed dwelling's side elevation to the rear elevation of 7 Byland Way.
10. The proposed built development would dominate the site area which would erode its openness and detract from the spacious character of the area. The proposed dwelling would therefore appear as an incongruous addition and this would not be fully overcome with the use of sympathetic materials.
11. Taking all of the above into account, the proposal would be harmful to the character and appearance of the area. Consequently, it would conflict with Policy CS2 of the Charnwood Local Plan Core Strategy 2015 (the CS), saved policy EV/1 of the Borough of Charnwood Local Plan 2004 (the LP) and Policy DS5 of the emerging LP. Together these policies seek a high standard of design and require new developments to respond positively to their context and to respect and enhance the character and local distinctiveness of the area.

Living conditions

12. As identified above, the proposed dwelling would have a garden area that is smaller than what is typical for properties in the surrounding area. Additionally, the rear elevation of 7 Byland Way would be close to the garden boundary. Due to its height and proximity to the garden boundary the neighbouring building would appear overbearing to future occupiers. When combined with the limited garden size and the presence of tall boundary fencing, the space would likely feel enclosed and cramped. This would result in poor living conditions for future residents.

13. There is a window in the rear elevation of 7 Byland Way, serving a room which is not currently in use as a habitable room. However, there is nothing to prevent it being used as such. The two properties are now separated by a tall timber fence. Nevertheless, the limited separation distance between the proposed garden and the window would result in noise and disturbance which would be detrimental to the living conditions of the neighbouring occupiers. Whilst the current occupier of 7 Byland Way has not objected to the proposal, a lack of objection does not equate to a lack of harm or potential future harm.
14. It is suggested that the dwelling is unlikely to be occupied by a family and it has been designed with the needs of older people or people with a disability in mind, meaning there is unlikely to be noise and disturbance. However, there is no mechanism to restrict occupancy nor to control how the garden space is used by any future occupier. As such, this consideration does not alter my conclusion on this matter.
15. Taking all of the above into account, I find that the proposal would not provide adequate living conditions for future occupiers, and it would harm the living conditions of the occupiers of 7 Byland Way. As such, it would conflict with CS Policy CS2, saved policy EV/1 of the LP and Policy DS5 of the emerging LP. Together these policies require new development to protect the amenity of people who live nearby as well as the amenity of future occupiers.

BNG

16. Under Article 7(1A) of the Town and Country Planning (Development Management Procedure) Order 2015, applications for planning permission are required to be accompanied by certain information relating to BNG. The objective of BNG is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits.
17. The appellant has submitted information related to BNG, but this does not demonstrate that a 10% net gain in biodiversity can be achieved on site. The Council therefore suggests that biodiversity gains would need to be secured off site. The appellant does not dispute this, stating that they assumed a legal agreement would be required by condition or that a Section 106 Agreement would be requested.
18. As I have found harm in relation to the other main issues in this appeal, my finding on this main issue is not determinative. However, if planning permission was granted, it would be subject to the biodiversity gain condition which requires the submission and approval of a Biodiversity Gain Plan. The Gain Plan sets out how the biodiversity gain objective of at least a 10% gain will be met. Planning Practice Guidance (PPG) advises that consideration will need to be given to whether the biodiversity gain condition is capable of being discharged successfully through the imposition of conditions and agreement of section 106 planning obligations to secure registered offsite biodiversity gains (Paragraph: 002 Reference ID: 74-002-20240214).
19. Given the purpose of planning obligations is to make development acceptable in planning terms, the PPG also encourages applicants to provide the local planning authority with draft heads of terms clearly setting out the obligations relating to

BNG that they are likely to be bound by in a section 106 agreement, should permission be granted (Paragraph: 015 Reference ID: 74-015-20240214).

20. I have not been provided with any information to indicate how off site gains could be delivered in relation to this proposal. I therefore do not know whether a net gain could be secured through the imposition of conditions, nor do I have any suggested heads of terms for a planning obligation which may be required to secure off site gains. As such, I cannot be satisfied that the biodiversity gain condition is capable of being discharged successfully in this case.
21. I therefore find that the proposal would not provide an adequate level of BNG and it would conflict with Policy CS13 of the CS and Policy EV6 of the emerging LP. Together these policies support development which enhance biodiversity and seek 10% biodiversity net gain.

Other Matters

22. The LP dates from 2004 and the CS from 2015, but the weight attached to them does not hinge on their age. Rather paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. While the Framework supports development that makes efficient use of land, it advises that decisions should take account of the desirability of maintaining an area's prevailing character, creating places with a high standard of amenity for existing and future users and providing net gains for biodiversity. As saved Policy EV/1 of the LP and Policies CS2 and CS13 of the CS are consistent with the Framework, I attach full weight to the conflict with these policies.
23. Comparisons between the current proposal and a previous planning application on the site are not material to my consideration of the merits of this case. Furthermore, concerns regarding the manner in which the planning application was considered by the Council fall outside the scope of this decision.

Planning Balance and Conclusion

24. The proposal would make an efficient use of land and would contribute to housing supply with a dwelling with internal space which would comply with the national space standards. There would be some economic uplift in the local economy during the construction process and from the future spending of occupiers. However, the contribution of one dwelling to the housing supply would be limited, and I have not been provided with evidence that the Council is not otherwise meeting its housing needs. As such, these benefits only attract limited weight and do not outweigh the harm I have found in relation to the main issues of this case.
25. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations that outweigh that conflict. Therefore, the appeal is dismissed.

A O'Neill

INSPECTOR