
Appeal Decision

Site visit made on 4 June 2025

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Appeal Ref: APP/X2410/W/24/3355582

Town Green Street, Rothley, Leicester LE7 7NU

- 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 Jack Emmet against the decision of Charnwood Borough Council.
 - The application Ref is P/23/2240/2.
 - The development proposed is erection of detached dwelling house with associated parking.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The Council's decision notice refers to policies in the emerging draft Charnwood Local Plan 2012-2037 (the DLP). The Council identifies that the policies referred to in its decision notice can be given significant weight. While there were a number of objections to emerging Policies INF1 and INF2, the other policies referred to were not subject to unresolved objections and thus I concur that, based on the evidence before me, significant weight can be attributed to the other emerging policies.
3. The site is located within the Rothley Conservation Area (CA) and thus I am mindful of the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Main Issues

4. The main issues relevant to this appeal are:
 - the effect of the proposal upon the living conditions of the occupiers of 21 Town Green Street with regard to outlook and overshadowing
 - the effect of the proposal upon flood risk
 - the effect of the proposal upon the character and appearance of the area, including the CA; and
 - the effect of the proposal upon biodiversity.

Reasons

Living Conditions

5. Within the flank wall of 21 Town Green Street is a bay window, as well as a side door with windows around it and these openings serve a sitting room. On the opposite wall of this room is another window and this looks out towards the rear outrigger of the attached dwelling. A short distance away, opposite the bay window and the side door is a boundary fence which is around 1.8 metres tall. The outlook from this window is partly enclosed by the boundary fence but given the limited height of the fence there is an outlook out of the window of the flank wall of no 25 as well as its rear garden and Town Green Street including the playground opposite. Additionally, the limited height of the boundary fence and the considerable gap between this room and the flank wall of no 25 means the room is not significantly overshadowed.
6. The proposed flank wall of the dwelling would be sited significantly closer to this sitting room than the existing flank wall of no 25. It would also be significantly taller than the existing fence. Whilst the outlook is already partly enclosed by the flank wall of no 25 and the fence, the outlook from this room would be almost entirely enclosed by the proposed development given how close it would be sited and how tall it would be. Although the window on the opposite wall of the sitting room provides an alternative outlook, it is also enclosed by the attached building, and the development would result in the room being enclosed on both sides. This would create an oppressive and overbearing outlook from the room. Additionally, given the close siting and height of the proposed flank wall the amount of light that would reach this room would be significantly reduced. Again, whilst the window opposite would supplement this, the room would become noticeably overshadowed. This, combined with the overbearing effect of the development, would harm the living conditions of the occupiers of no 21.
7. The proposed dwelling would be built set back from the roadside compared to no 25 and as such, from the flank window on the second floor, the outlook from this window would not be completely enclosed by the scheme. The occupiers would still be able to see over the front roof slope towards the playground and houses opposite. Additionally, given the siting of the front roof slope, the room would not become significantly overshadowed.
8. The kitchen is located at the rear of no 21 within the outrigger, with a window overlooking the rear garden. The proposed dwelling would extend slightly beyond the rear elevation of the house, but the first floor would be set back from the shared boundary with no 21 and this set back would ensure the outlook from this window would not be significantly enclosed by the scheme and that this room would not be harmfully overshadowed. Similarly, whilst the scheme would partly enclose the rear patio area, this would mostly be the single storey element of the proposed dwelling which given its modest height would not appear harmfully overbearing. The set back at first floor level would also ensure that the scheme would not appear overbearing from the patio area and garden.
9. Therefore, for the reasons given above, the proposal would harm the living conditions of the neighbouring occupiers with regard to a loss of outlook and overshadowing. Consequently, the development would conflict with Policy RO1 of the Rothley Neighbourhood Plan (NP), Policy EV/1 of the Borough of Charnwood

Local Plan (LP), Policy CS2 of the Charnwood Local Plan 2011 to 2028 Core Strategy (CS) as well as Policy DS5 of the DLP. These seek, amongst other matters, for development to protect the amenity of people who live or work nearby and those who will live in the new development.

Flood Risk

10. To the south of the appeal site is Rothley Brook. A Flood Risk Assessment was submitted with the application, which was prepared in 2015, and this appeared to show that part of the appeal site was in Flood Zone 2. However, a technical note was submitted with this appeal which identified assessment undertaken to support the Charnwood Borough Council Level 1 Strategic Flood Risk Assessment published in 2018 and a Level 2 Strategic Flood Risk Assessment completed by Charnwood Borough Council in 2021. As such, the Council should be aware of this technical data, and this should not be new evidence that was not before it at the time of its decision. Additionally, the technical note was submitted alongside the appeal and as such parties would have had the opportunity to comment on it.
11. The technical note identified that the appeal site would appear to be at low risk of fluvial flooding taking into account future climate change. However, the data provided to determine this would appear to be at an insufficient scale to identify whether any built development, including parking and access from the site would lie within Flood Zone 2. Neither does the technical note rule out flood risk from surface water.
12. I must therefore conclude that on the evidence before me the scheme fails to demonstrate that it would be safe from the risk of flooding for the lifetime of the development. In this regard I cannot be assured that it would comply with Policy CS16 of the CS and Policy CC1 of the DLP. These expect development, amongst other matters, to be directed to locations within the Borough at the lowest risk of flooding. Neither would it reflect the National Planning Policy Framework (the Framework), which has similar aims.

Character and Appearance

Rothley Conservation Area - Significance

13. The appeal site is located on Town Green Street which is within the Rothley Conservation Area. The Rothley Conservation Area Character Appraisal (CA Appraisal) identifies the special interests of the CA includes the two clusters of development, around Town Green and the Church of St Mary and St John both containing a wealth of timber framed buildings, narrow streets and lanes, tightly enclosed with rows of buildings up to the back of the pavement; the way many of the buildings in the medieval streets are set slightly out of parallel with the street, the variety of buildings and activities, amongst other matters. It also notes that red brick, Welsh slate roofs and granite boundary walls are commonly used building materials and that coherent groups of terrace buildings are a strong feature of the character of the village. Taking into consideration the evidence before me, these are features that positively contribute towards the significance of the character and appearance of the CA.
14. The appeal site comprises land next to 25 Town Green Street (no 25), an end terrace dwelling. The land is partly bound by a granite wall, and the front of the site is covered by hardstanding, and it appears that it was previously garden land but

has since been fenced off from no 25. As open land, the site forms a gap between the terrace group including no 25 and the neighbouring semi-detached properties. Opposite the appeal site is a playground but apart from this open space, the development in the area consists of a mix of dwelling types. These are generally built from the materials identified in the CA Appraisal and have granite and brick walls. The close siting of these buildings is consistent with the narrow streets and lanes that are tightly enclosed with rows of buildings. The pattern of built form in the street has a more varied building line compared to other parts of the CA. While the appeal site forms a gap between two groups of properties, the appeal site itself makes a very limited contribution towards the significance of the CA, only insofar as it is bound by a granite boundary wall and separates a group of terrace houses from other development.

The effect of the proposed development

15. The proposal would be a two-storey tall dwelling that would be built from red brick with grey roof tiles. It would have a roof that would be similar in pitch to the dwellings either side, although it would have two rooflights and a large box dormer window on the rear roof slope. On the front elevation it would have a door and a large window on the ground floor and two smaller windows above, each of these would also have a stone lintel above it. The front elevation would be similar in appearance as the semi-detached properties next to the site. The dwelling would be set back behind the front elevations of the buildings either side, behind a parking area and this would involve the demolition of a section of the granite wall that currently bounds the site. The detailed design of the front elevation and the materials proposed would be consistent with the prevalent design of houses in the area and in particular the semi-detached properties next to the site. As such, the development would use features that positively complement the significance of the CA.
16. Both the width and height of the dwelling would be similar to other houses nearby and the size of the associated plot would be consistent as well. Although the dwelling would include a two-storey rear addition which would partly break up the rear roof slope and make the dwelling appear larger when viewed from either side. However, given that the dwelling would only appear modestly larger than those nearby the scale of the proposed dwelling would not appear out of character.
17. Much like the detached dwelling sited at the opposite end of the terrace group associated with no 25, the appeal building, as a detached dwelling with modest gaps either side of it, would retain the coherent group of terrace buildings and the semi-detached pair next to it. This, alongside the setback from Town Green Street, would ensure those two groups of buildings would generally retain their group value and thus the scheme would not harm the positive contribution they make to the character and appearance of the area. Additionally, the scale and siting of the dwelling would ensure the scheme would not appear cramped within the street scene.
18. Given that a characteristic of the area is the tightly enclosed narrow streets, the siting of a dwelling between these two groups would not necessarily appear out of character. Large gaps between groups of properties are not particularly common in the CA and as the scheme would retain a gap with the dwellings either side, the development would not disrupt the coherent design of those groups. Additionally, the appraisal notes that it is not out of character for dwellings to be set back out of

parallel with houses either side within the CA and this is particularly the case on Town Green Street. There are other houses along the street where this has occurred and as such, there is not necessarily a robust building line for dwellings in the area. While vehicles could be parked towards the front of the dwelling, there are other similarly located parking areas on Town Green Street and vehicles parked in front of, or next to dwellings is not uncommon in the CA. Consequently, the siting of the house would not harm a feature that positively contributes towards the significance of the area.

19. Whilst rooflights within front roof slopes are not common in the CA, they have been installed within the front roof slope of the neighbouring property and others nearby. Additionally, the proposed rooflights would only occupy a small section of the roof and thus the roof slope as a whole would not appear cluttered.
20. Within the rear roof slopes of nearby houses rear dormers are uncommon. However, there is a varied roofscape within the CA and the view of the flat roof would not itself be unusual, given that the houses either side of the appeal site also have flat roofs towards the rear. The scale of the dwelling when viewed from the side would appear slightly greater than the houses it would sit between given the size of the dormer window. However, the roofscape generally would not appear inconsistent with other houses nearby in the CA. Taking into consideration the design and siting of the proposed dwelling it would not appear incongruous in the street scene.
21. The granite wall in front of the appeal dwelling only covers a small section of the frontage of the site. The removal of part of the granite wall would result in the removal of a feature that positively contributes towards the significance of the CA. This would only account for a small section of the wall along this street with the rest of the wall unaffected by this scheme. As the development would still retain some of the wall, the loss of only a small part of it would generally preserve this feature of the area that positively contributes towards the significance of the CA.
22. Therefore, for the reasons given above, the proposed development would not harm the character or appearance of the area and would preserve the character and appearance of the CA. Therefore, the proposal would comply with Policies RO1 and RO3 of the NP as well as Policies CS2 and CS14 CS, Policy EV/1 of the LP and emerging Policies DS5 and EV8 of the DLP. These policies seek, amongst other matters, for development to respect and enhance the character of the area, having regard to scale, density, massing, height, landscape, layout, materials and access arrangements as well as require development proposals to protect heritage assets and their setting.

Ecology

23. Circular 06/2005¹ advises that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development is established before planning permission is granted. However, it goes on to state that bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.

¹ Government Circular: Biodiversity and Geological Conservation (August 2005)

24. In this instance, where the appeal dwelling and parking is proposed is mostly hardstanding with much of the garden to remain as garden land. Based on the information before me, this area of hardstanding appears to be of negligible biodiversity value. There is no substantive evidence that there are protected species on site or that the scheme would result in a loss of ecological features given that the built form would generally be sited on an existing area of hardstanding.
25. For the reasons given above, the proposed development would not have an unacceptable adverse effect on protected species and biodiversity. Therefore, the development would not conflict with Policy RO1 of the NP, Policy CS13 of the CS, and Policy EV6 of the DLP. These state, amongst other matters, that they will support developments that protect biodiversity.

Other Matters

26. The Heritage Impact Assessment identified two Grade II listed buildings located near to the junction of Town Green Street and North Street as well as others further afield. Given the distance between the appeal site and these listed buildings and the intervening built form the proposed development would not affect the setting of these listed buildings and thus their settings would be preserved. The Council determined that no listed buildings were affected by the proposal and based on the evidence before me and the reasons given above, I find no reason to conclude otherwise.
27. Several matters were raised by interested parties, however given that I am dismissing the appeal on other grounds it has not been necessary to come to a conclusion on these matters in this instance.

Planning Balance

28. The Council can identify a 5-year housing land supply, whilst acknowledging that it is failing to meet its statutory duty with respect to the delivery of self-build dwellings. However, the absence of a development plan policy relating to a specific issue does not automatically mean there are no relevant development plan policies or that the development plan is 'silent'. In this instance, the NP was made in 2021, the CS adopted in 2015 and the policies in the LP were saved typically as they conform with the Framework. Policies RO1, EV/1, CS2 and CS16 are consistent with the Framework insofar as they relate to creating places that have a high standard of amenity for existing and future users as well as ensuring development is made safe from flooding during its lifetime without increasing flood risk elsewhere. Therefore, the most important policies are not out-of-date and paragraph 11d) of the Framework is not engaged.
29. The development is proposed to deliver a self-build house. The benefits of custom or self-build housing are recognised by the Planning Practice Guidance finding that it helps to diversify the housing market and increase customer choice. The Framework also states that local planning authorities should seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing. Based on the information before me the Council is failing to meet its statutory duty with respect to the delivery of plots for self-build dwellings.

30. A section 106 obligation is likely to be the most appropriate method to secure matters relating to the ownership of the self-build house for a period of three years as well as bind the requirement to successors in title should the property be sold in the future. As such, I am not convinced that the description of development or a condition could achieve this. Without an appropriate mechanism in place, the scheme would not secure a self-build home, and the development would not address the identified shortfall in self-build homes.
31. A number of appeal decisions have been provided identifying the varying degrees of weight attributed to the benefits of self-build homes². This generally related to the shortfall in delivery of such properties. Each case must be assessed on its own merits, and the circumstances of each case are specific to them. Based on the evidence before me, it would appear that the self-build homes within many of the appeal decisions referred to were secured via a legal agreement, unlike the scheme before me. These decisions do not dictate the weight which should be attached nor provide justification for the proposal.
32. The appellant has referred to the Self-build and Custom Housebuilding Act 2015 (as amended) (the Act). Amongst other matters, the purpose of the Act is to allow individuals wishing to build their own home to register their interest in acquiring a suitable plot of land within the relevant authority.
33. The Act makes provision for local planning authorities to maintain a register of people who are seeking to acquire a serviced plot in their area in order that they may build houses for them to occupy as homes; and for local planning authorities to have regard to the demand for custom build housing as evidence by the registers when exercising certain functions, including those relating to planning. The Act, however, does not provide for the approval of self-build plots irrespective of or as an exception to the provisions of the development plan.
34. Even if I was to accept that a condition could secure this matter, in light of the shortfall in the delivery of self-build plots, the delivery of a single self-build house would only make a moderate contribution towards addressing this shortfall.
35. The Framework identifies that substantial weight should be attributed to the use of suitable brownfield land within settlements for homes. However, for the reasons given above, the site is not suitable, and the scheme would not comply with the Framework in this regard. Furthermore, based on the submitted evidence the appeal site previously formed part of the residential curtilage of no 25. As the site is located within a built-up-area and was a residential garden, for the purposes of this appeal, the site is not considered to be previously developed land, as per the Framework.
36. Whilst the Council can identify a 5-year housing land supply the delivery of a single dwelling in this location would be a benefit of the scheme which attracts modest weight. The development would deliver economic benefits during and after construction. The occupiers of the dwelling would also contribute towards the social fabric of the area. The scheme also intends to incorporate measures such as air source heat pumps, ventilation systems and solar thermal and photovoltaic

² Appeal References: APP/J3720/W/23/3336035; APP/P0119/W/17/3191477; APP/G2435/W/18/3214451; APP/A0665/W/14/2212671; APP/H1740/W/19/3241879; APP/H1840/W/20/3255350; APP/V3120/W/20/3265465/ APP/B1930/W/20/3265925/ APP/D3125/W/21/3274197; APP/F2415/W/22/3296353; APP/C1570/W/22/3396426/ APP/Z3825/W/21/3283823; APP/V3120/W/22/3297610; and APP/W3520/W/23/3316136.

panels which would provide environmental benefits. Given that these relate to a single dwelling I attribute limited weight to these benefits.

37. The proposed development would harm the living conditions of nearby occupiers, and it has not been demonstrated that it would be safe from the risk of flooding for the lifetime of the development. Accordingly, this would result in a conflict with relevant development plan policies. There would also be conflict with the emerging policies in the DLP and as the DLP has not been adopted, I afford conflict with its policies reduced weight. However, overall, I attribute significant weight to the identified harms. Whilst the development would not harm the character or appearance of the area and would preserve the character and appearance of the CA as well as not harm ecology, this would be expected of any development and these matters weigh neither for nor against the development. Taking into consideration the evidence before me, the material considerations, even when considered cumulatively, would not outweigh the identified harms.

Conclusion

38. The proposed development would conflict with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR