

Item No. 1

Application Reference Number P/21/0241/2

Application Type:	Householder	Date Valid:	3 rd February 2021
Applicant:	Mr and Mrs K and C Abell		
Proposal:	Proposed new ancillary accommodation in replacement of previously approved garage structure (ref: P/15/2583/2) on same footprint previously approved (new building part constructed)		
Location:	70 Brick Kiln Lane, Shepshed, LE12 9EL		
Parish:	Shepshed	Ward:	Shepshed West
Case Officer:	Jack Wilkins	Tel No:	07754256235

This item has been called in to Plans Committee at the request of Councillor Radford who has concerns about the proposal.

Description of the Application

The host dwelling is a semi-detached property situated on the western side of Brick Kiln Lane, Shepshed. Although the host property falls within the limits to development, the area of land in which the development will be situated is not, as defined by policy ST/2. The proposal will therefore be considered as a development in the countryside, despite being located within the curtilage of 70 Brick Kiln Lane. The area is predominately residential in character with 68 (the adjoining semi-detached property), and 70A Brick Kiln Lane situated on either side of the host dwelling. 64c and 64d Brick Kiln Lane are situated to the rear of the application site. The application site's primary access is set to the rear of the property and this driveway will run adjacent to the proposed development

Planning permission is sought to construct a two storey, detached ancillary building to be used in connection with the existing house. Plans for a detached garage were originally approved as part of P/15/2583/2, although the approved garage in that application was smaller in height in comparison to what has been proposed as part of the current application, measuring 2.57m to the eaves and 5.37 to the ridge of a pitched roof. The construction of the proposed development began on 01/07/20, and at the time of the site visit, the exterior walls had been completed, with the roof partially completed.

The detached garage proposed in the current application will measure, 7.5m in length and width (matching the footprint previously approved), but will be altering the height to measure 2.375m to the eaves and 5.79m to the ridge of a pitched roof. A WC is proposed at ground floor level and will be serviced by a window on the side elevation. A storage area is proposed on first floor level which will be accessed using a pull down ladder. Two windows and sliding doors on the ground floor and an obscure glazed

window will be installed to the front elevation to provide daylight to the two storey development. The front elevation will face to the rear of the host dwelling, as well as 68 and 70a Brick Kiln Lane. The garage will be used as a home office/photography studio and will remain ancillary to the host dwelling.

Development Plan Policies

Charnwood Local Plan 2011-2028 Core Strategy

Policy CS2 – High Quality Design – requires new developments to respect and enhance the character of the area, protect the amenity of people who live and work nearby and function well and add to the quality of the area.

CS11- Landscape and Countryside- requires new developments to protect landscape character and to reinforce sense of place and local distinctiveness by taking account of relevant local Landscape Character Assessments.

Borough of Charnwood Local Plan

Policy ST/2- Limits to Development- this policy sets out limits to development for settlements within Charnwood.

Policy EV/1 – Design - seeks to ensure a high standard of design for developments, which, inter alia, respects and enhances the local environment, is of a design, layout, scale and mass compatible with the locality and utilises materials appropriate to the locality.

Policy H/17 – Extensions to Dwellings– states that planning permission will be granted provided the development meets specific criteria relating to the scale, mass, design and use of materials with the original dwelling etc.

Policy CT/1- General Principles for Areas of Countryside, Green Wedge and Local Separation- This policy defines which types of development are acceptable in principle within areas of countryside.

Policy CT/2- Development in the Countryside- Sets out how development that is within the countryside will be assessed to ensure there is no harm to the rural character of the area.

Policy TR/18 - indicates that planning permission will not be granted for development unless off-street parking for vehicles, including cycles, and servicing arrangements are included to secure highway safety and minimize harm to visual and local amenities. The policy promotes standards that would require 3 parking spaces for a 4 or more bedroom dwelling, although it states that this will be used as the starting point in assessing the level of provision and represent the maximum level. The quantity of parking allowed should reflect the proposed use and the location of development, the availability of public off -street parking; the current, or potential accessibility by non-car modes and the scope for practical measures to significantly reduce the use of private car trips to and from a site.

Other material considerations

National Planning Policy Framework

The NPPF is a material consideration in planning decisions. The NPPF contains a presumption in favour of sustainable development.

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are 3 dimensions to this;

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation
- A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services;
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment.

Paragraph 11 states that where the development plan is absent, silent or relevant policies are out-of-date, proposals should be granted permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the most important policies in this Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted.

Section 12: Achieving well-designed places:

Paragraphs 124- 132 – Development is required to achieve high quality design that respects local distinctiveness and poor design should be refused.

The National Design Guide

Seeks to encourage high quality design and sets out how this can be achieved.

Design Supplementary Planning Document (2020)

This document seeks to encourage, promote and inspire higher design standards in new development.

Leicestershire Highways Design Guidance

Leicestershire County Council Highways are no longer part of the 6 Cs Design Guide arrangements; however, the provisions within that guide will continue to be applied. The guide will now be referred to as Leicestershire Highways Design Guide. It deals with infrastructure requirements for new developments.

Planning Practice Guidance

This was launched as a web based resource, and replaces a list of previous practice guidance documents and notes, as planning guidance for England and consolidates this guidance on various topics into one location and condenses previous guidance on various planning related issues. The guidance also sets out relevant guidance on aspects of flooding, air quality, noise, design, the setting and significance of heritage assets, landscape, contaminated land, Community Infrastructure Levy, transport assessments and travels plans, supporting the policy framework as set out in the NPPF.

Relevant Planning History

P/15/2583/2- Erection of two storey and single storey extensions to rear, bay window and porch to front of dwelling and erection of double garage to rear (amendments to scheme previously refused under ref P/15/1622/2- **Granted Conditionally**

Responses of Statutory Consultees

None received

Other Comments Received

Councillor Radford objects to the proposal on the following grounds:

- The detached garage has not been built in accordance to the original planning permission.
- The building is much higher than the first application by some 3 ft. Now overlooking neighbouring properties as it is built close to the boundary fence.
- This was intended to be a garage, but the news application states home office/Studio/games room – studio could bean music room (noise concerns) and residents are concerned that it could be an extension of the properties living accommodation.
- If planning permission is to be granted, the Councillor requests that the height be reduced to the original application and the original intended use as a garage to be enforced. If this is not possible, the Councillor requests the precise intended usage for this building must be stated and limited to that use, a condition added that no roof lights/windows are installed and enforced restriction on noise levels.

Two letters of support have been sent to the Local Planning Authority:

- No objections to the structure. It is a vast improvement on the eyesore which previously occupied that area of land.
- The neighbours have been made aware of the objections and would like to state they have no objections. The building has no impact on their property.

Consideration of the Planning Issues

The main issues to be considered in the determination of this application are:

- Principle of development
- Design and the Impact on the Street Scene
- The Impact on Residential Amenity
- Highway Safety

The Principle of the Development

Although the proposed development will be situated in the countryside, this application still adheres to the principle of development set out in the previously approved application (P/15/2583/2). The development is unlikely to have a detrimental impact to the countryside, as per policies CS/11, CT/1 and CT/2, due to the nature of the site and the development arranged around it. Furthermore, the current limits to development, defined in 2004, are outdated in this area as they do not account for the properties constructed to the rear of the application site. Revised Settlement limit boundaries, prepared to inform the new local plan in 2018, now show the application site entirely within the built up area. These revised boundaries are a material consideration and should be given some weight in the determination of this application.

The site has an existing residential use and therefore there is no objection to the principle of intensifying this use through extending the existing dwelling. The key issues and planning considerations would therefore be the design, scale and positioning of any extensions and the resulting impact on the amenity of neighbouring properties, in relation to potential loss of daylight/sunlight, privacy and outlook, as well as the impact on the street scene and parking/highway safety.

Design and the Impact on the Character and Appearance of the Area

The proposed development will be situated to the rear of the large plot owned by the residents at 70 Brick Kiln Lane, approximately 6.25m from the shared boundary with 64c Brick Kiln Lane and 26.22m from the rear elevation of the host dwelling. The garage will remain subservient in height and mass when compared to the surrounding properties. The materials used are sympathetic to the surrounding area and it is considered the structure will not dominate any existing buildings, the closest being over 16m from the development. Although not completely out of site from the street scene, the garage is sensitively located and does not impose on the character of Brick Kiln Lane, which contains a variety of traditional cottages and newly built properties. The built form and character of the area is therefore mixed.

Councillor Radford has commented on the design of the garage and suggests it is not being built in accordance with the previously approved plans. The planning system is not, however, to be used punitively and the local planning authority is required to consider each application on its individual merits and in accordance with the relevant Policies (CS2, EV/1, H/17 and the Design SPD). The plans approved as part of application P/15/2583/2 are a material consideration, but do not represent the only possible form of development within the application site. After reviewing the scheme submitted under the current application, Officers consider that the design, scale and form of the garage complies with Policies CS2, EV/1 and H/17 and the Design SPD and it is considered that there are no grounds for refusal relating to the design and impact on the character of the area.

The Impact on Residential Amenity

Core Strategy Policy CS2 and saved local plan policies EV/1 and H/17 promote high quality design and layouts to preserve residential amenity for both occupiers of existing neighbouring properties and the future occupiers of new development. Further guidance on residential amenity is set out in the Design SPD. Concern has been expressed regarding the potential overbearing impact the garage will have upon neighbouring properties, particularly the two properties set to the rear of the development.

The Design SPD states “where elevations containing main ground floor habitable room windows would face flank walls, the following distances provide a guide to avoid over dominance:

- 9.5m minimum distance between the two elevations where a flank wall is single storey;
- 12.5m for two storey flank walls”

Although the rear wall of the garage is not as large as typical flank walls of two storey buildings, the garage has two storey’s and should therefore be considered as such for the purposes of applying the guidance. The minimum distance to avoid an overbearing impact for a two storey flank wall is 12.5m. The distance between the rear elevation of the garage and 64C Brick Kiln Lane is approximately 16.4m. The distance between the front elevation of the garage and 68 and 70a Brick Kiln Lane is approximately 28.55m and 25.85m respectively. It is therefore considered that the proposed development will not have an overbearing impact on neighbouring properties.

The potential for loss of privacy must also be assessed. The rear wall of the garage, which faces 64c and 64d Brick Kiln Lane, will not contain windows on both ground and first floor level. The existing boundary fence between the garage and the closest neighbouring property (64c Brick Kiln Lane) measures at least 2 metres in height. This fence will further alleviate any potential loss of privacy or overbearing impact experienced. The first floor window on the front elevation, servicing the storage room, may affect the privacy and both 68 and 70a Brick Kiln Lane.

The Design SPD states “where rear elevations containing main habitable room windows, the following distances provide a guide to protect the loss of privacy:

- 21 metres for two storey dwellings”

As mentioned previously, the distance between the garage and the rear elevations of 68 and 70a Brick Kiln Lane exceed 21 metres and will therefore remain largely unaffected by the development. However, to ensure the privacy of the neighbouring gardens, it has been agreed that the first floor storage room window will be obscure glazed. A planning condition is recommended to secure and enforce this.

In terms of daylight and sunlight amenity, the development is situated a sufficient distance from any neighbouring habitable windows for it to have no impact upon these amenities.

Concern has also been expressed regarding the potential impact of adverse noise. The plans describe the ground floor room as a 'Home Office/Studio/Games Room'. The concerns surrounded the broad description of the use, with the potential for 'studio' to involve the playing of loud music. The applicant has since informed us that the main use for the garage will be a personal photography studio and home office, and therefore will not be used as a commercial premises. Councillor Radford suggests a planning condition be implemented to limit the use of the garage to what has been outlined. A planning condition is recommended to ensure that the garage is used only in association with the main house for domestic purposes.

Given the above context, it is not considered that the proposal would have a substantial adverse impact on neighbouring amenity. As such, the proposal accords with Core Strategy Policy CS2, saved local plan policies EV/1 and H/17, the NPPF and the Design SPD.

Highway Safety

Saved local plan Policy TR/18 requires new development to provide off-street parking for vehicles and promotes standards that requires 3 parking spaces for a 4 or more bedroom dwelling in the interests of highway safety. Paragraph 109 of the NPPF states 'new development should only be resisted on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe'.

The property has capacity for three off street parking spaces after the completion of the development. One available space is situated to the front of the property on the hard standing that front Brick Kiln Lane. Two parking spaces will be situated to the side of the proposed building and are accessed via the rear driveway which runs behind the property.

The proposed development and off street parking provision will not interfere with the rear driveway which provides a private right of access to the land west of 70a Brick Kiln Lane.

The proposed use as a personal photography studio/home office will not result in an increase in traffic along Brick Kiln Lane.

Having regard to the above, it is considered that the proposal accords with the National Planning Policy Framework and saved Policy TR/18 of the adopted Local Plan and that severe harm as described in Paragraph 109 of the NPPF would not be caused by the development.

Conclusion

Decisions on applications need to be made in accordance with the adopted development plan policies unless material considerations indicate otherwise.

The main issue to be considered in this case is the design of the garage, the impact on residential amenity and highway safety.

Whilst it is acknowledged that a large garage is proposed, the design of the partially constructed building is considered acceptable in design terms and would comply with Policies CS2, EV/1 and H/17 and the Design SPD. The garage is set to the rear of the curtilage and does not form a dominating aspect of the street scene. The garage remains ancillary to the host dwelling in both design and use.

With regards to neighbouring amenity, the development complies with the provisions of policies CS2, EV/1 and H/17 along with the advice given in the Design SPD with regards to loss of light, privacy, outlook and noise. Whilst concerns have been raised with regards to the potential loss of privacy and generation of adverse noise, planning conditions are recommended to be included on the decision notice that will require the first floor window to be obscure glazed and the use of the garage to remain in association with the host dwelling for domestic purposes only.

The proposal will not be increasing parking requirements, however as the existing property has four bedrooms, three off street parking spaces are required in accordance with policy and guidance. These have been provided and shown on the proposed plans.

Accordingly it is recommended having regard to the above considerations that planning permission is granted conditionally.

RECOMMENDATION:

Grant Conditionally

1. The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following plans:
 - Application Form - received by the Local Planning Authority on 3rd February 2021.
 - Applications Plans –
Drawing no. 21.3945.01 - received by the Local Planning Authority on 3rd February 2021
Drawing no. 21.3945.02 (B)- received by the Local Planning Authority on 1st April 2021
 - Site Location Plan at 1:1250 – received by the Local Planning Authority on 3rd February 2021

REASON: To define the terms of the planning permission.

3. Only those materials specified in the application shall be used in carrying out the development hereby permitted.

REASON: To ensure the satisfactory appearance of the completed development.

4. The garage building hereby permitted shall be used only as ancillary and incidental accommodation in association with no. 70 Brick Kiln Lane, Shepshed and shall not be used for any other purposes.

REASON: to protect the amenity of nearby properties in accordance with policy CS2 of the Core Strategy

5. The first floor window of the building hereby permitted shall be non-opening and fitted with obscure glazing to Pilkington level 5 obscurity (or equivalent) and retained as such.

REASON: to protect the privacy of nearby properties in accordance with policy CS2 of the Core Strategy

The following advice notes will be attached to the decision

1. Planning permission has been granted for this development because the Council has determined that it is generally in accord with the terms of the above-mentioned policies and the Council's adopted Supplementary Planning Guidance on House Extensions.
2. DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DECISION - Policies EV/1, H/17 of the Borough of Charnwood Local Plan (adopted 12th January 2004) and CS2 of the Core Strategy (adopted 9th November 2015) have been considered in reaching a decision on this application. The proposed development complies with the requirements of these saved Local Plan policies and there are no other material considerations which are of significant weight in reaching a decision on this application.
3. The decision has been reached taking into account paragraph 38 of the National Planning Policy Framework and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.
4. The provisions of the Party Wall Act 1996 may apply in relation to the boundary with the neighbouring property at 70a Brick Kiln Lane, Shepshed. A Solicitor or Chartered Surveyor should be able to give advice about whether and how the proposed work falls within the scope of this Act.

