
Appeal Decision

Site visit made on 23 August 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 October 2016

Appeal Ref: APP/M1005/W/16/3149410

113 Derby Road, Belper, Derbyshire, DE56 1UX

- 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 E Kirkby against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2015/0803, dated 19 August 2015, was refused by notice dated 26 January 2016.
 - The development is proposed split level bungalow/house.
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Decision

1. The appeal is allowed and planning permission is granted for a split level bungalow/house at 113 Derby Road, Belper, Derbyshire, DE56 1UX in accordance with the terms of the application, Ref AVA/2015/0803, dated 19 August 2015, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposal upon highway safety.

Reasons

3. The appeal site is a rectangular area of land which previously formed part of the elevated rear garden to No 113 Derby Road, and is now separated by a 2m close boarded fence. The site is accessed from Beckstitch Lane, this is a long road serving a number of dwellings to the eastern side of its length as well as serving as a rear access to properties fronting Derby Road. There is no footway to the western side of the road, and pedestrians use a footpath to the eastern side of Beckstitch Lane.
 4. Most dwellings along Beckstitch Lane are served by private driveway and/or garages, although at the time of my visit, some on-street parking along the western side was evident.
 5. The proposed dwelling would front onto Beckstitch Lane, on its western side, and would include two off-street parking spaces for future occupiers forward of the principle elevation. An existing garage and driveway serving No 113 Derby Road would be retained.
 6. The appellant's submitted drawing (reference K.15.01) demonstrates that there would be a 43m visibility splay to the north of the appeal plot, while to the south a smaller 33m splay is achieved, due to the presence of a tree on the highway boundary. While visibility is reduced towards the south, Beckstitch
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Lane leads upwards on rising ground to the north and the appeal site is thus elevated and has downward views to the south. I also saw that the incline of the road has the effect of slowing down vehicles, particularly those travelling north along the highway. I therefore do not consider that this restriction in visibility to the south would result in material harm to safety for vehicles exiting the site.

7. I acknowledge that the visibility from the appeal site to both the north and south of Beckstitch Lane would be across private land comprising of the rear garden areas and driveways of properties along Derby Road, due to a lack of highway margin and frontage. This would therefore be out of the appellant's control. However, at present, the land to the rear of these properties incorporates low boundary treatments and the erection of tall boundary treatments or other obstructions to visibility would be subject to planning permission and controlled by the Council. Conditions relating to the gradient of the driveway and full details of the boundary treatments serving the property could also be imposed to ensure that the development itself would secure adequate visibility.
8. I accept that visibility would be likely to be reduced by neighbours parking on their driveways. However, due to the length of driveways, and typical heights of vehicles, I do not consider that this would be significant. I also agree with the appellant that the mutual need for visibility from all properties along the length of the Lane would help to provide a natural control.
9. At my site visit I witnessed relatively low levels of traffic at intermittent periods. The speed of the road is restricted to 30mph and the supporting traffic survey provides evidence that average speeds are below this threshold. I note the criticism of the traffic survey by a number of third parties who contend that at peak times the conditions of the road are very different and I note that the 85th percentile for southbound traffic was above the legal speed limit.
10. Nonetheless, the proposed dwelling would be of a modest size. As such, I do not consider that additional vehicular movements arising from the erection of a dwelling would be likely to be significant in respect of prevailing conditions, including by any additional traffic movements at peak time.
11. I consider that off-street parking serving the proposed dwelling would be appropriate and could be conditioned accordingly. I also find that parking for No 113 Derby Road would be adequate. Therefore, while I am sympathetic to concerns raised regarding current levels of on-street parking and cars blocking pavements causing pedestrians to enter the carriageway, including wheelchair users and children, I find no reason to believe that the proposals would create further pressure for on-street parking.
12. Overall I conclude that the addition of a single further dwelling on Beckstitch Lane would not result in any material risk to the safety of drivers and pedestrians using the highway. Accordingly, I find that the development would accord with saved Policy TP1 of the Amber Valley Borough Local Plan 2003 which requires the creation of satisfactory access to the transport network and the National Planning Policy Framework (the Framework) which seeks to minimise conflict between traffic and pedestrians and provide safe and suitable access for all.

Other Matters

13. I note the concerns relating to impacts upon living conditions of neighbouring residents, including loss of privacy, daylight and an increase in noise and disturbance. While the proposed plot is small and the proximity of the proposed dwelling would be reasonably close to the rear of properties along Derby Road, including Nos 111-115, I am satisfied that the separation distances along with the tracking on the sun, would prevent any overshadowing.
14. The area is residential and I do not consider that the addition of a single additional dwelling would be likely to give rise to a significant increase in noise and disturbance. There is already a degree of overlooking between properties and, subject to condition, I am satisfied that there would be no material impacts upon privacy from the proposed development.
15. The area is mixed in terms of its character and appearance with a number of types and styles of dwellings. The addition of a dwelling would not harm that mixed character and materials can be conditioned to ensure that the development would integrate into the locality. The site is located outside of any designated heritage assets and I find no harm to the significance of Belper from the development.
16. Finally in respect of concerns relating to so called 'garden grabbing' and precedent for other development along the western side of Beckstitch Lane, each application and appeal must be determined on its individual merits and generalised concerns of this nature would not justify withholding permission in this case.

Conditions

17. I have considered the conditions submitted by the Council and I have included an additional condition specifying the approved plans, for certainty. I have included conditions relating to materials, to preserve the character and appearance of the area, although I have corrected the suggested wording due to inaccuracy.
18. I do not consider a condition relating to soft landscaping to be necessary or reasonable in respect of preserving local character. Given the plot size and the residential nature of the area I consider this condition to be onerous and not to meet the tests as set out in paragraph 206 of the Framework.
19. As I have previously identified, it is also necessary to impose highways conditions relating to provision of parking spaces, gradient, boundary treatments and obstructions in order to preserve highway safety. I have, however, amended the wording suggested by the Council in order to ensure that the parking spaces are retained throughout the life of the development, as well as ensuring that boundary treatment details are submitted and agreed prior to the commencement of the development, rather than prior to occupation of the dwelling.
20. A condition relating to obscure glazing to the first floor is necessary in order to protect the amenity of neighbouring properties, as discussed above.

Conclusion

21. For all the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

C Searson
INSPECTOR

Schedule of 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: EK/2015/1 and EK/2015/2.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the Local Planning Authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until full details of the proposed treatment of the boundaries of the site shall be submitted to and approved by the Local Planning Authority. The agreed scheme shall be implemented in full prior to the occupation of the development.
- 5) Prior to occupation of the hereby approved dwelling, the site fronting to Beckstitch Lane shall be cleared and maintained thereafter clear of vegetation or any other obstruction exceeding 1 metre in height (600mm in the case of vegetation) relative to the road level for a distance of 2.4 metres into the site from the highway boundary.
- 6) The dwelling shall not be occupied until space has been laid out within the site in accordance with the submitted drawings for two cars to be parked and that space shall thereafter be kept available at all times for those purposes.
- 7) The hereby approved access driveway to Beckstitch Lane shall be no steeper than 1 in 4 over its entire length.
- 8) The north facing side elevation window shall be glazed in highly obscured (non see-through) glass and be non-opening. Such work shall be completed prior to the commencement of use of the development and maintained as such thereafter.