
Appeal Decision

Site visit made on 21 November 2016

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 23 December 2016

Appeal Ref: APP/C1055/W/16/3156891

2 Devas Gardens, Spondon, Derby DE21 7AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr M Pickering against the decision of Derby City Council.
 - The application Ref DER/04/16/00457, dated 15 April 2016, was refused by notice dated 12 July 2016.
 - The development proposed is the erection of a single dwelling to form a semi-detached pair with curtilage.
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Decision

1. The appeal is allowed and planning permission is granted for residential development (one dwelling) at 2 Devas Gardens, Spondon, Derby DE21 7AD in accordance with the terms of the application, Ref DER/04/16/00457, dated 15 April 2016, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 1:500, ref 1604/Pickering/Spondon.

Procedural matters

2. The application was submitted in outline with all matters reserved for later approval. I have dealt with the appeal on this basis. The appellant submitted a plan with the application indicating how a dwelling could be accommodated on the site. As the application is in outline the appellant is not tied to the detail shown on this plan. However, I have treated it as an example of how the site could be developed and have assessed the application on this basis.
 3. The description of the development that appears on the decision notice and on the appeal form is 'residential development (one dwelling).' I am content that
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this amended description adequately describes the proposal and I shall use it in the determination of this appeal.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area, including its effect on trees.

Reasons

5. The appeal site forms the side garden to 2 Devas Gardens. At paragraph 53 the National Planning Policy Framework ('the Framework') advises that local planning authorities should consider setting out policies to resist inappropriate development of garden land. The City of Derby Local Plan Review ('Local Plan') pre-dates the Framework. However, policy H13 of the Local Plan advises that planning permission for residential development will only be granted where a satisfactory form of development and relationship to nearby properties can be created, including there being no adverse effects caused by 'backland' and 'tandem' proposals. As such, this is a policy that resists the inappropriate development of garden land. The proposed development would be to the side of the house at No 2, rather than a tandem or backland development to its rear. Nevertheless, such development has the potential to result in an unsatisfactory form of development and relationship to nearby properties and so the proposal needs to be assessed on this basis.
6. 2 Devas Gardens is located on the corner of Devas Gardens and West Road. Devas Gardens is a residential side road from the latter half of the last century characterised by closely spaced detached and semi-detached dwellings set behind shallow front gardens. In views on the approach along West Road in both directions, owing to the gentle bend in the road and position of buildings closer to the back edge of the pavement along West Road to the east, the appeal site is not prominent.
7. The proposed development would be seen primarily in relation to existing development on the southern side of West Road, rather than the more suburban development set well back from the highway on the opposite side of the road. On the same side of the road as the appeal site development is varied. Nearby to the east, not shown on the submitted location plan, development associated with the older part of Spondon abuts or is set very close to the back edge of the pavement on both sides of West Road. In contrast, the side of the house at 1 Devas Gardens, which separates the appeal site from the older part of Spondon, is set further back from the road than No 2 behind a side garden enclosed by a boundary fence.
8. To the west of the appeal site, the pattern of development changes once more with mature trees along a public cycle / pedestrian path enclosing the rear of the site which serves to separate it from the school whose boundary fence, wall and trees enclose the street scene. In views from the west, the strong boundary treatment to the school and the mature trees along the public cycle / pedestrian path obscure the site's contribution to the streetscene.
9. At present the appeal site, apart from a single storey garage attached to No 2 is undeveloped and its main contribution to the character and appearance of the area is its mature and somewhat overgrown landscaping, in particular the large silver birch tree that overhangs the front boundary. Other large trees that appear to form part of the appeal site are located beyond its rear boundary next to the public cycle / pedestrian path. Trees directly in front of

the house at No 2 are ornamental evergreen trees that dominate the house, and by obscuring its contribution to the streetscene, detract from the character and appearance of the area.

10. The appeal site is sufficiently large to accommodate a dwelling with a similar footprint to the house at No 2 without it being located too close to the boundaries of the site for it to appear cramped or harm the trees behind its rear western boundary. Given the varied pattern of development in the area, in my judgement, the appeal site could therefore in principle accommodate a dwelling that would complement the urban grain of the area and the streetscene. With the control that exists at reserved matters stage a dwelling could be achieved that would complement the varied street scene in terms of its layout, scale, appearance and the balance between hard and soft landscaping.
11. In terms of the principle of access to the site, there is no objection to the proposed development from the local planning authority. On the basis of the existing access and the indicative drawing, I am satisfied that if access was to be gained from Devas Gardens, rather than West Road, this could occur without harm to the large silver birch tree. Concerns have been expressed regarding traffic which is heavy in the area at school opening and closing times. However, such levels of traffic are short lived and an additional house would not add materially to traffic in the area.
12. On the basis of the indicative block plan it may well be that a future dwelling on the site would have a smaller private amenity space than nearby dwellings. However, with the control that exists at reserved matters stage reasonable provision could still be made.
13. Taking all these matters into account, I therefore conclude that the proposed development, with the control that exists at reserved matters stage to ensure good design, would complement the varied pattern of development in the vicinity and the character and appearance of the area. As such it would comply with policies GD4 and H13 of the Local Plan which require the protection of the character and appearance of a locality through high quality design that respects local design features. It would also therefore comply with a core planning principle of the Framework.

Other matters

14. The only private outdoor amenity space to 1 Devas Gardens is its side garden. A dwelling on the appeal site could have windows on the Devas Gardens elevation that would face this private amenity space. However, owing to its shape this side garden angles away from the appeal site and windows within the front of No 2 already face the side garden to No 1. As a consequence, subject to sensitive design, material overlooking of the private amenity space to No 1 would not occur and a satisfactory relationship with this dwelling could be achieved.

Conditions

15. Application for the approval of all reserved matters needs to be made within the appropriate timescale and development needs to take place within two years of the approval of the last of the reserved matters. For the avoidance of doubt and in the interests of proper planning the development needs to be carried out on the application site which is defined by the submitted location plan. I have required these matters by condition.

16. As all matters are reserved, the suggested conditions in relation to access can be attached to the approval of a relevant reserved matters application. It is therefore unnecessary to attach the suggested conditions regarding access to the permission.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, the proposal complies with the development plan. I therefore conclude that the appeal should be allowed.

Ian Radcliffe

Inspector