
Appeal Decision

Site visit made on 20 June 2017

by Katie McDonald MSc MRTPI

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

Decision date: 14 July 2017

Appeal Ref: APP/C1055/W/17/3172390
37 Carlton Road, Derby DE23 6HB

- 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 Paul Wheeler against the decision of Derby City Council.
 - The application Ref DER/01/16/00033, dated 8 January 2016, was refused by notice dated 31 January 2017.
 - The development proposed is the demolition of existing bungalow; new build 2 bedroom detached dwelling and 9no. residential apartments.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Derby City Council have cited Policies GD4, E23 and T4 of the City of Derby Local Plan Review (January 2006) (LP) in the reason for refusal. However, these policies were replaced by Policies CP3, CP4 and CP23 of the Derby City Local Plan Part 1 - Core Strategy (January 2017) (CS). Furthermore, Policy CP19 is also of relevance. As such, I have considered the appeal on the basis of saved policies H13 and GD5 of the LP and Policies CP3, CP4 and CP23 of the CS.

Main Issues

3. The main issues are the effect of the development upon:
 - i) biodiversity,
 - ii) the character and appearance of the surrounding area, and
 - iii) highway safety and amenity.

Reasons

Biodiversity

4. The planning application documents included a Bat Survey Report (CLE20148/005/02) (BSR), carried out by Clear Environmental Consultants. The BSR is dated May 2015, and advised that no bats were recorded during the survey. However, I note that there is a limitation of the report, in that the majority of ecological data remains valid for only short periods due to the inherently transient nature of the subject. The survey results contained in the BSR are considered accurate for 2 years. This is now time-expired.

5. Bats are protected by law and their presence is a material consideration in a proposal where there is a reasonable likelihood of a protected species being present and affected. In such circumstances Circular 06/2005 advises that a recent survey should be submitted to enable the risk to the species to be assessed and where necessary mitigated.
6. I note that the Local Planning Authority (LPA) suggested a condition to require that a repeat survey is carried out. However, Circular 06/2005 also advises that surveys should only be required by condition in exceptional circumstances. I do not consider this would be an exceptional circumstance and in this regard, the proposal would conflict with Policy CP19 of the CS, which seeks to ensure that biodiversity will be protected and enhanced.

Character and appearance

7. Sited on a corner plot, the appeal site lies adjacent to two storey Edwardian semi-detached dwellings, opposing two storey early 20th century semi-detached dwellings, with a modern two storey detached house to the opposing corner. It is set within a predominantly residential area featuring a dilapidated bungalow and various outbuildings. Carlton Road features a number of trees, boundary hedges and landscaping which are well established. Fairfield Road features more modern dwellings and the adjacent dwelling's side elevation faces the street.
8. The appeal scheme proposes demolition of the bungalow, with the erection of a two storey detached house and nine residential apartments spanning three floors in one building. The design of both buildings has been through much iteration with the final scheme incorporating a single storey element, modern detailing and high quality architectural features from the opposing and adjacent dwellings. For example, the use of herringbone brick detailing, brick banding and bay windows would echo the character of existing buildings, whilst the use of feature glazing in the gables of the apartments would introduce a contemporary twist. Additionally, the height of the buildings would be of a similar context to those surrounding, being predominantly two storeys. The apartment building would be sited to follow existing building lines, and would create a solid and high quality built form that would pleasingly address the corner. The inclusion of landscaping to the front would assist the scheme to assimilate to its surroundings.
9. Whilst the scale of the buildings would occupy a much larger footprint than the existing bungalow, I do not consider that this would have an adverse impact upon the character and appearance of the area. The plot is of a significant size that would easily accommodate a larger built form to address this wide and sweeping corner. Indeed, it would efficiently use the land to provide alternative apartment accommodation to contribute to the creation of vibrant and mixed communities. Additionally, the site would provide a private garden for the detached dwelling, and amenity space and off-street parking for the apartments.
10. Consequently, I find that the proposal would have an acceptable effect upon the character and appearance of the surrounding area, providing a high quality and sympathetic development, compliant with Policies CP3 and CP4 of the CS which seek high quality design that will make a positive contribution towards the character, distinctiveness and identity of this neighbourhood of Derby; and

Policy H13 of the LP, that seeks a satisfactory form of development and relationship to nearby properties, facilitating higher densities.

Highway safety and amenity

11. Parking for the apartments would be provided off-street to the rear of the site, with the detached dwelling having its own off-street car parking space to the side. The access point for the car parking area would use the existing access for the bungalow and the level of vehicle and cycle parking would be sufficient and well-integrated based on the comments from the LPA's Highway Authority. Furthermore, I note that the site has access to bus routes and the Highway Code gives advice to deter parking near corners.
12. However, the LPA's Highway Authority has recommended that a build out of the footway to reduce the kerb radii at the junction is required to reduce vehicle speeds. The LPA detail that this build out could make the on-street parking position worse and potentially impede the existing bus route.
13. The LPA's Highway Authority is of the opinion that vehicle speeds are higher than 19mph at the point where vehicles come into view from the access, and to reduce vehicle speed to provide sufficient visibility, a build out is required. They also assert that demand for on-street parking is high. However, both the requirement for the build out and the observation of on-street parking do not appear to be based upon any substantiated evidence. Whilst use of the access point would be intensified, it is existing. Visibility splays would be improved, by the height reduction in the boundary treatment, and it would not be unreasonable to assume that cars would slow down to turn the corner. As such, I do not consider that the proposal would necessarily require a build out in order for it to be considered acceptable.
14. Without the build out, and the appropriate provision of off-street parking, I conclude that the proposal would have minimal effect upon on-street parking for existing dwellings, and accordingly has an acceptable effect upon highway safety and amenity, in accordance with Policy CP23 of the CS, in so far as the proposal would have viable travel choices and effective, efficient and sustainable transport networks which meet the needs of residents; and Policy GD5 of the LP which seeks to avoid loss of amenity in relation to traffic generation, access and car parking.

Other Matters

15. I note that LPA has concerns that the development is about maximising profits at a direct cost to existing residents, however, it is a well-founded principle that the planning system does not exist to protect private interests such as value of property or land.
16. I have taken account of the objection from the Derby Civic Society with regards to the effect of the development upon the character and appearance of the surrounding area. However, I have found the proposal would have an acceptable impact.
17. I have noted the objections to the development received from local residents and the local Councillor, but as I am dismissing the appeal, nothing turns on them.

Conclusion

18. The proposal would provide a high quality development, compliant with Policies CP3 and CP4 of the CS and Policy H13 of the LP, along with having an acceptable effect upon highway safety and amenity, in accordance with Policy CP23 of the CS and Policy GD5 of the LP. However, due to the lack of an up to date bat survey, I find significant conflict with Policy CP19 of the CS. This conflict is not outweighed by the benefits of the scheme and for the given reasons above, I conclude that the appeal should be dismissed.

Katie McDonald

INSPECTOR