
Appeal Decision

Site visit made on 17 December 2019

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2020

Appeal Ref: APP/F1040/W/19/3238343

Land south of 75-89 Alexandra Road, Swadlincote, DE11 9AY

- 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 M Khan against the decision of South Derbyshire District Council.
 - The application Ref 9/2019/0505, dated 29 April 2019, was refused by notice dated 2 August 2019.
 - The development proposed is described as “construct 6 apartments”.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the street scene and the character and appearance of the area, and
 - the effect of the proposed development on the living conditions of existing neighbouring occupants, with particular regard to privacy and outlook.

Reasons

Character and appearance

3. The site comprises a vacant piece of land located at the southern end of Alexandra Road. The road rises uphill from the north, levels out for a short stretch in the location of the site, and continues to rise a little further to the south along Church Avenue. The site slopes down a little from the adjacent pavement on Alexandra Road towards Stanhope Street. In planning policy terms, the site is located within a predominantly residential area, though there are some commercial/light industrial buildings positioned around the crossroad junction of Alexandra Road, Church Avenue and Stanhope Street. The site is bounded by car parking immediately to the west and south and residential development to the north, ie a two-storey block of flats, and to the east, on the opposite side of the road, ie two-storey, terraced properties. The neighbouring residential properties are characterised by dual-pitched roofs mainly constructed of red brick under tiled roofs.
4. The proposal consists of a three-storey block of 6 flats, 2 on each level, and associated on-site car parking. At three-storeys high the eaves would be

significantly higher than those of the neighbouring residential properties. The building would have a flat roof and all fenestration would have a vertical emphasis, including vertical bay windows on the front and rear elevations extending over the upper two floor levels. The proposed building would be of a form and design more akin to the form and design of one of the existing two-storey commercial properties on Stanhope Street, rather than the neighbouring residential properties on Alexandra Road. Although the external elevations would be primarily constructed of brick, the proposed bay windows would consist of white aluminium cladding, which is a material that does not feature on neighbouring residential properties.

5. Given the relatively large gap that would remain between the proposed building and the two-storey block of flats to the north, along with the existing car parking uses at the southern side of the site, the proposed building would stand alone, prominent within the street scene. Along with its prominent position, at three-storeys high with a flat roof design, the proposed building would draw attention to itself, appearing as an incongruent feature in the street scene.
6. I acknowledge the existence of the commercial/light industrial properties in the area, including those that are vacant, and some of their design features, such as tall gables fronting Alexandra Road. I also acknowledge that the commercial/light industrial properties on Stanhope Road and the properties on Church Avenue would be part of the context within which the proposed building would be viewed as one travels south along Alexandra Road. However, the residential properties on Alexandra Road would form a significant part of the context. Furthermore, as one travels north down Church Avenue and when viewed from Stanhope Street, the proposed residential building would be seen in its primary context of other residential properties.
7. Within the context of the site's surroundings, I conclude that the proposal would result in a residential development that would be out of keeping with the street scene and consequently harmful to the character and appearance of the area.
8. As such the proposal would not accord with Policy BNE1 of the South Derbyshire Local Plan Part 1 (2016) (LP Part 1), guidance in the South Derbyshire Design Guide: Design Supplementary Planning Document (2017) (SPD), or the design requirements of the National Planning Policy Framework (the Framework). These policies and guidance require, among other things, new development to be well designed, relate to their street context, be sympathetic to local character and contribute to local distinctiveness.

Living conditions – existing neighbouring occupants

9. The closest neighbouring dwellings to the proposed building would be those located opposite the site on the eastern side of Alexandra Road, comprising a terrace of 6 two-storey dwellings, made up of 3 pairs of 2, each pair having a different set-back. Although I have not been provided with any evidence regarding the type of rooms served by the windows on the front, western facing elevations of these properties, their design suggests that it is highly likely that there are habitable rooms at both ground and first-floor levels.
10. As well as bathroom windows, the eastern facing elevation of the proposed building includes habitable room windows serving bedrooms on all 3 levels. I

consider that the windows on 4 of the properties opposite, ie Nos 90 to 96, would fall within the splay of vision from the proposed bedroom windows. However, only 2 of the properties, ie Nos 94 and 96, would be directly opposite them. I note that Nos 94 and 96 are set-back further from the pavement than the other 4 properties in the terrace. The SPD provides guidelines regarding distances between existing and proposed windows¹. The distances vary, depending on room types and the guidance advises that other factors need to be considered, such as floor level, the nature of any intervening land and whether or not windows are primary or secondary. For dwellings of 3 or more storeys, greater distances are required to those listed in the table. Although I have not been provided with the resultant distances, and applying the guidance flexibly as advised in the SPD, my observations on site suggest that the proposed bedroom windows on the third-storey would not meet the required standards and would result in an unacceptable level of overlooking. The three-storey design of the proposed building would also harm the outlook from at least Nos 94 and 96.

11. The northern facing elevation of the proposed building would have a secondary lounge/kitchen window on each of the 3 levels. I note that there is a window on the southern facing gable elevation of the apartment block immediately north of the site. I do not know the type of room served by this window. However, should the appeal be allowed a condition could be attached requiring the secondary windows proposed to be obscure-glazed and non-opening, which would ensure privacy levels are maintained for occupants of the neighbouring block of flats.
12. Most of the habitable room windows in the proposed building are located on the western facing elevation. Information submitted by the appellant, which I have no reason to question, suggests that the nearest relevant windows on dwellings on Stanhope Street would be around 50 m away. As such, the proposal would not harm the living conditions of occupants of properties to the west of the site. There are no properties at a distance that would cause any concern beyond the southern boundary of the site.
13. Bearing the above factors in mind, I conclude that the proposal would result in some unacceptable loss of privacy in respect of Nos 90 to 96 Alexandra Road and some unacceptable loss of outlook as regards Nos 94 and 96. Consequently, the proposal would cause harm to the living conditions of existing occupants of Nos 90 to 96 Alexandra Road in respect of privacy and outlook. As such the proposal would not accord with policies SD1 and BNE1 of the LP Part 1 or guidance in the SPD and paragraph 127 of the Framework which, among other things, require development not to have an adverse impact on the amenities of existing occupiers.

Other Matters

14. The appellant has pointed out that the site benefits from previous planning approvals. Although this is the case, the concerns arise from the current proposal primarily due to its design and three-storey height. The appellant also points out that the location of the site is suited to residential development, which I acknowledge is the case. The proposal would support some strands of sustainable development as outlined in the Framework. Thus, the additional housing would provide some social and economic benefits. These

¹ The Table is provided on P70 of the SPD.

considerations weigh in favour of the proposal. However, neither of them individually or collectively outweighs the considerable harm I have identified in respect of character and appearance of the area and the living conditions of occupants of existing neighbouring properties.

Conclusion

15. For the reasons outlined above, I conclude that the appeal is dismissed.

J Williamson
INSPECTOR