
Appeal Decision

Site visit made on 21 January 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/C1055/W/19/3239030
638 Burton Road, Derby DE23 6EL

- 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 and Mrs B and H Bahadur and Kaur against the decision of Derby City Council.
 - The application Ref 19/00468/FUL, dated 29 March 2019, was refused by notice dated 5 September 2019.
 - The development proposed is the construction of a new detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. The main issues are the effect of the development on:
 - The character and appearance of the area; and
 - The living conditions of nearby occupiers.

Reasons

Character and Appearance

4. The appeal site comprises the rearmost part of the garden for No 638 Burton Road, which is a large dwelling set within a substantial plot. It is currently laid to grass, with domestic outdoor items present, and is enclosed by boundary fencing. There are dwellings in proximity to the appeal site, including along Elms Garden and Burton Road. There are a number of trees present in the surroundings and the access road for Elms Garden runs adjacent to the site.
5. The proposed development would introduce a detached, two storey dwelling into the appeal site. It would face towards the existing access road and would

provide space for parking to the front and a private garden to the rear. It would provide four bedrooms and would have a staggered gable design to account for the nearby protected Beech tree.

6. This part of Burton Road is characterised predominantly by large dwellings set within substantial plots. The appeal site is significantly smaller than the adjoining sites, especially Nos 638 and 640. I acknowledge that No 640a and the properties on Elms Garden are on smaller plots however these still exceed the size of the appeal site. The scale of the dwelling would see it located in proximity to the side boundaries of the appeal site which would result in a cramped form of development. The design of the proposed dwelling, with a number of staggered gabled elements would exacerbate this in visual terms and as such, the development would result in the site appearing overdeveloped.
7. The proposed dwelling would be in proximity to the existing dwelling to the rear No 2 Elms Garden. The Council have identified that the proposed dwelling would be higher than No 2. I consider that as a result of the design and siting of the proposal, which would sit largely forward of the adjacent dwelling, the proposal would appear dominant and overbearing in the context of this adjacent property.
8. Consequently, whilst I accept that this part of Burton Road has been developed over the years, including the introduction of Elms Garden amongst others, I find that a dwelling of this scale and size would appear cramped within the plot which would not respect the more spacious character and appearance of the neighbouring sites. It would therefore be at odds with Policies CP3 and CP4 of the Derby City Local Plan Part 1 – Core Strategy (2017) (Core Strategy) and Saved Policy H13 of the City of Derby Local Plan Review (LPR). Collectively, these require development to be of a high quality which is well integrated into its setting, make a positive contribution towards the character, distinctiveness and identity of the neighbourhood and resist proposals that do not appropriately respond to their context, amongst other things.

Living Conditions

9. The proposed dwelling would be sited in proximity to No 2 Elms Garden, which is located directly adjacent to the site boundary. The proposed dwelling would sit forward of this property, however the staggered nature of the dwelling would minimise the impact on the outlook from the front of this dwelling. The nearest first floor facing windows of No 2 are set back a reasonable distance from the appeal site. I find that the development would not therefore result in harm in terms of visual impact and outlook from the habitable rooms of this property.
10. However, there is an area of outdoor space to the rear of No 2 which, at certain points during the day would potentially be overshadowed as a result of the overall height of the proposal. Whilst there appears to be another area of amenity space for this property to the side, it is likely that the impact on the adjoining outdoor space would result in a degree of harm to the living conditions of the occupiers of this property.
11. No 640a is located adjacent to the appeal site also and comprises a dormer bungalow. It is in proximity to the site boundary which currently comprises a fence. There are windows partially visible facing the appeal site however these

are at ground floor level and are already largely obscured by the boundary fencing. In addition, given their proximity to the fencing, it is likely that the light to these windows is already restricted to a degree. I therefore find, as a result of the positioning of the proposed dwelling and the presence of the existing fencing, that the development would be unlikely to result in any undue harm to the living conditions of the occupiers of this property in terms of overshadowing, loss of light or a visually overbearing impact.

12. Accordingly, I find that there would be some harm to the living conditions of the occupiers of No 2 in terms of the use of their rear outdoor space. As such the proposed development would fail to comply with Policy CP4 of the Core Strategy and Saved Policies H13 and GD5 of the LPR which seek to achieve good standards of privacy and avoid unacceptable harm to nearby amenity, amongst other things.

Other Matters

13. The appeal site is located in proximity to a protected Beech tree. The dwelling has been designed to sit outside of the root protection zone and a tree survey has been undertaken by the Appellant. The Council considered that the impacts on the tree could be satisfactorily managed by conditions and I have little before me that would lead me to disagree with this conclusion.

Conclusion

14. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

R Norman

INSPECTOR