
Appeal Decision

Site visit made on 1st September 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2020

Appeal Ref: APP/F1040/W/20/3246905

27 Milton Road, Repton, Derby DE65 6FZ

- 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 Rose Holden against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2019/0853, dated 11 July 2019, was refused by notice dated 17 January 2020.
 - The development proposed is outline application for the erection of a bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved except access. I note that an amended plan was submitted during the planning application, Ref 04A, which included 2 m high brick walls along stretches of the side boundaries between Nos 29 and 27 Milton Road. The Council made its decision based on the amended plan and I have also. With regards to matters of layout, scale and appearance, as these are matters reserved for future determination, I have made my decision on the basis that the proposed site plan is indicative only.

Main Issues

3. The main issues are:
 - whether the proposal provides a safe and convenient access, with particular regard to the proposed driveway, and
 - the effect of the proposal on the living conditions of the existing occupiers of numbers 27 and 29 Milton Road, with particular regard to noise and disturbance.

Reasons

Whether the proposal provides a safe and convenient access

4. The site comprises land to the rear of Nos 27 and 29 Milton Road and is located within a residential area. Access to the proposed bungalow would be taken from Milton Road, positioned at the eastern side of the existing front garden of

- No 27, and a driveway of around 60 m in length and 3.47 m wide would serve the property, running between Nos 27 and 29.
5. Of significant note is a dismissed appeal dated January 2014 (APP/F1040/A/13/2195897), to which I have had regard as the proposal was very similar to this appeal. The key differences between the previously dismissed proposal and the current one are as follows: 1) the previous proposal sought permission for scale and access, whereas the current proposal only seeks permission for access; 2) the proposed driveway on the previous scheme was 3.1 m wide, whereas the driveway on the current proposal is 3.47 m wide, the increased width being achieved by reducing the extent to which the eaves on No 27 would overhang, and 3) the current proposal indicates 2 m high brick walls along either side of the proposed driveway, extending from a point in line with the front elevation of No 27 to the indicative turning/parking area of the proposed bungalow.
 6. The Inspector for the previous appeal concluded that the proposed driveway, constrained by the resultant projecting eaves on no 27, would be too narrow to allow 2 vehicles to pass each other, would be inadequate for use by larger vehicles such as servicing and emergency vehicles, and, due to its long length, would inconvenience future occupiers in respect of moving their refuse bins for collection. Consequently, the Inspector concluded that the proposed access was inadequate and would result in a substandard form of development.
 7. Being in a built-up area, vehicle speeds on Milton Road are limited to 30 mph. During my visit I did not observe any parking restrictions on the road. The proposed access driveway is nearly 0.4m wider than the dismissed scheme and the plans show that the resultant eaves on the eastern side on No 27 would not overhang the drive. This would allow access to the property for some vehicles that the inspector for the previous appeal considered would not be possible. The indicative plan also shows that a layout could potentially be achieved that would provide a turning area which would allow a range of delivery, service and emergency vehicles, of the type likely to visit the site regularly, to be able to enter and leave in a forward gear. As such, I consider it would not be necessary for two vehicles to be able to pass each other along the proposed driveway.
 8. I acknowledge that some large service and emergency vehicles are unlikely to be able to enter and leave the site in a forward gear. However, the need for large emergency vehicles to visit the site is likely to be infrequent. As regards a large refuse vehicle and collection of waste, this could be achieved without such a vehicle having to enter the site, as is likely to be the existing arrangement for most of the houses in the area, or it could be collected and/or disposed of by other means. As such, should the appeal be allowed, a condition could be attached requiring details of refuse collection to be submitted to the Council for approval.
 9. With respect to future occupiers having to take refuse bins 60 m for collection, although not ideal, I do not consider this to be an inconvenience of an extent that, on its own, would warrant dismissal of the appeal. Furthermore, as indicated above, if such an arrangement was unacceptable, a condition could be attached, should the appeal be allowed, requiring details of alternative refuse collection arrangements to be submitted to the Council for approval.

10. As regards potential construction traffic, again, a condition could be attached requiring a Construction Management Plan to be submitted to the Council for approval, thereby allowing the Council to ensure such traffic would not unduly hinder the flow of traffic, or create danger, on the surrounding highway network
11. In light of the changes that have been made to the current proposal compared with the proposal previously dismissed, although these are not extensive, the wider driveway and removal of overhanging eaves would enable a sufficient range of vehicle types and sizes to enter and leave the site in a forward gear in a safe and convenient way. Conditions could also be attached, should the appeal be allowed, to ensure safe and convenient arrangements are provided for refuse collection and managing the construction process. As such, I conclude that the proposal would provide a safe and convenient access, with particular regard to the proposed driveway. As such, the proposal accords with Policy INF2 of the South Derbyshire Local Plan Part 1, (LP), guidance in the South Derbyshire Design Guide: Design Supplementary Planning Document (2017), (SPD), and paragraphs 108 and 110 of the National Planning Policy Framework (the Framework).
12. I appreciate that there are other regulations and standards, such as Building Control and British Standards, which any proposed development may have to adhere to. However, not being able to construct the proposal due to other regulations or standards does not constitute a planning reason for dismissal.

Living conditions

13. The proposal would provide one bungalow, and scale is an aspect to be determined later. As noted, the proposed bungalow would be to the rear of Nos 27 and 29 and a driveway running between Nos 27 and 29 would serve the property.
14. With respect to living conditions, and in particular noise disturbance, the key differences between the previously dismissed proposal and the current one are that: i) a timber fence has been erected along the boundary between the 2 properties (replacing a chain link fence), and ii) 2 m high brick walls are proposed along either side of the proposed driveway, extending from a point in line with the front elevation of No 27 down to the indicative turning/parking area associated with the proposed bungalow.
15. The Inspector for the previous appeal noted that the proposal would introduce vehicle movements at the side of Nos 27 and 29 and adjacent to the rear private garden space and considered this would lead to noise and disturbance to occupiers of these properties. The Inspector also considered that although a solid boundary fence might mitigate against noise and the glare of headlights at ground-floor level of No 29, it would not mitigate against noise disturbance to the first-floor bedroom on the side elevation of No 29.
16. I note the appellants view that the proposal would not result in significant additional vehicle movements. However, in the absence of any formal assessment of the likely effect of additional vehicle movements on the living conditions of occupiers of Nos 27 and 29, I have no justifiable reason for reaching a different conclusion to that of the Inspector for the previous appeal. Indeed, it is possible that the passageway created by the proposed 2 m high

brick walls could amplify the noise of vehicles, making the current proposal worse than the previous dismissed scheme.

17. Notwithstanding my conclusion regarding access, I therefore conclude, in the absence of any substantive evidence to suggest otherwise, that the proposal would harm the living conditions of existing occupiers due to noise and disturbance. As such, the proposal does not accord with Policy SD1 of the LP, guidance in the SPD or paragraphs 127 and 180 of the Framework, which collectively, and among other things, seek to ensure development provides high standards of, and does not adversely affect, living conditions and quality of life of existing users as well as future occupiers.

Conclusion

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

J Williamson

INSPECTOR