
Appeal Decision

Site visit made on 15 March 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2021

Appeal Ref: APP/C1055/W/20/3261347

Land Between Slack Lane and Etwall Street and Junction at Uttoxeter Old Road, Derby DE1 1GE

- 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 Alex Jenkins on behalf of Patroclus Ltd. against the decision of Derby City Council.
 - The application Ref 20/00299/FUL, dated 28 February 2020, was refused by notice dated 18 September 2020.
 - The development was originally described as: 'proposed new student development comprising of 59 rooms over 12 apartments over four floors @ land between Slack Lane, Etwall Street and Junction between Uttoxeter Old Road, Derby, DE1 1GE.'
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposal on the character and appearance of the surrounding area;
 - ii) the effect of the proposal on the living conditions for the occupants of neighbouring properties; and
 - iii) whether the proposal makes adequate provision for on-site car parking.

Reasons

Character and appearance

3. The appeal site constitutes a redundant yet prominent parcel of land that is bounded by Slack Lane, Etwall Street, and Uttoxeter Old Road. To the west of the site are two separate commercial buildings that are two storeys in height with flat roofs. Beyond these buildings, the predominant built form in the immediate locality consists of two storey terraced housing. Taller buildings can be perceived from the appeal site, however, these are physically and visually removed, with the prevailing scale of development being two storeys and principally domestic in form and appearance.

4. The appeal proposal would front the three road frontages of the site. The elevation facing Etwall Street would be formed of a three-storey structure with a mansard roof on top, which would contain additional accommodation. This would then step up to four storeys with a flat roof. The design approach would continue onto the Uttoxeter Old Road frontage which would be a mixture of four storeys and three storeys with mansard roof. Finally, the building would curve onto Slack Lane with a four-storey height.
5. Due to the height, mass, scale and overall bulk of the proposed building, it would be significantly and demonstrably larger than the surrounding built form. The structure would be close to the commercial development fronting Etwall Street. Although the closest section would be set back from the road, the transition in height between the two buildings would be both substantial and abrupt. As a consequence, the stark contrast in height would result in this element of the proposal having a dominant and imposing effect on the street scene. I note the reference to the potential ability to increase the height of the adjacent commercial buildings through permitted development rights. However, I have no evidence before me that such development would be forthcoming. Accordingly, as a material consideration, this matter attracts negligible weight.
6. The contrasting height with the prevailing form of development would be demonstrated further on the Uttoxeter Old Road frontage. Although a greater gap would exist between the proposal and the adjacent end of terrace dwelling, the difference in height and scale would be dramatic, creating an uncomfortable and harmful transition within the street scene. When viewed from Slack Lane, the proposal would also dominate its neighbouring building due to the significant increase in height, scale and bulk. Accordingly, although larger buildings can be seen within the vicinity of the appeal site, the height, mass, and scale of the proposal would result in an imposing, dominant, and visually intrusive building that would be in stark and harmful contrast to the prevailing scale of the surrounding area.
7. I therefore conclude that the proposal would harm the character and appearance of the area. As a consequence, it would fail to comply with Policy H13 of the City of Derby Local Plan Review (2006) (LP), and Policies CP3 and CP4 of the Derby City Local Plan – Part 1: Core Strategy (2017) (CS). Taken together, these policies seek high quality development which responds positively to existing buildings.

Living conditions

8. The appeal site is situated in close proximity to a number of two storey terraced houses. Specifically, Nos 2 – 8 Etwall Street front the appeal site and would look towards a part four storey, part 3 storey with mansard roof elevation. As identified above, I have found that the proposed bulk and mass of the building would result in an imposing and dominant structure within the street scene. Accordingly, it follows that such a structure would demonstrably impact upon outlook.
9. The houses identified above currently overlook an open site and as a consequence, their outlook is currently unimpeded. This represents an unrealistic outlook in a built-up environment and one that should not be retained for the sake of it. However, the proposal would introduce a building

that would be substantially larger than surrounding properties. Although the three storey with mansard roof element would be set back beyond the established building line, it would represent a significant increase in the height and bulk beyond the prevailing scale. Accordingly, the outlook from the properties opposite would change in a significant and demonstrable manner and they would look towards a large and imposing structure. Moreover, the step up to four storeys would coincide with the building moving closer to the properties opposite. This would compound the change in outlook and would ensure that the resultant building would dominate and overwhelm the houses opposite. Consequently, although benefitting from an unrealistic outlook currently, the scale and bulk of the proposal would introduce an overbearing and oppressive building onto the site when viewed from the houses opposite. Accordingly, it would have a substantially harmful effect on outlook.

10. I note that the appellant considers that the Council's refusal reason does not state that the development would cause direct impact on neighbouring amenity. However, it does make clear that the scale of the proposal would be to the detriment of the residential amenities enjoyed by local residents. Moreover, the areas of concern are also directly referenced within the Council's statement of case, and for the reasons identified above, I agree with this assessment. Accordingly, I conclude that the proposal would harm the living conditions for the occupants of neighbouring properties. It would therefore fail to comply with Policies GD5 and H13 of the LP and Policies CP3 and CP4 of the CS. Taken together, these seek amongst other things, high quality design which does not cause unacceptable harm to the amenity of nearby areas.

Car Parking

11. The proposal would bring a large number of students onto the site and would provide 6 car parking spaces. The evidence confirms that these would not be for general use and instead would be bookable on what are termed as 'moving days'. Accordingly, any cars that would be generated by the development would likely park on the surrounding streets.
12. I note in the evidence before me that there are concerns with levels of parking on the existing streets. However, I have no substantive evidence in the form of parking surveys to confirm this matter. I do not doubt that parking demand is high, however, I also note the comments from the Highway Authority that confirm that the location of the site brings with it opportunities for sustainable travel and that the trip generation of the proposal should be low. The parties are also agreeable to the use of a travel plan which would seek to encourage the use of sustainable transport. Based on the evidence before me, I have no reason to consider that such an approach would not be appropriate. Moreover, in the absence of compelling evidence in relation to existing parking concerns, I am satisfied that the use of a travel plan would adequately mitigate any effects of the proposal from a parking perspective.
13. Consequently, despite my findings set out above in relation to the other main issues, subject to the use of a suitably worded condition, I conclude that the proposal would make adequate provision for on-site car parking. On

this basis, it would therefore accord with Policies GD5 and H13 of the LP which require amongst other things, residential development that does not harm the amenity of nearby areas having regard to car parking.

Other Matters

14. The appeal has been submitted with a legal agreement which seeks to provide review mechanisms due to viability concerns with the proposal. The ability for the Council to revisit these matters would be important had the appeal proved successful, however, for the reasons identified above, this has not been the case. Accordingly, although the legal agreement holds some weight in favour of the proposal, this is very limited and certainly does not outweigh the fundamental concerns previously identified.
15. The proposal would provide purpose-built student accommodation that would help meet the Council's ambition of supporting the local university. It may also enable some existing housing that is occupied by students to revert back to family dwellings. This would represent both an economic and social benefit of the proposal, however, it would not outweigh nor alter my findings set out above.

Conclusion

16. I have found that the proposal would provide adequate car parking provision. However, this does not represent a benefit of the proposal and weighs neutrally in my assessment of the appeal. As a consequence, it does not alter or outweigh the harm in relation to character and appearance and living conditions for the occupants of neighbouring properties.
17. Accordingly, the appeal should be dismissed.

Martin Chandler

INSPECTOR